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SENATE



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CANADA

# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Tuesday, May 1, 2012

The Honourable NOËL A. KINSELLA  
Speaker

This issue contains the latest listing of Senators,  
Officers of the Senate and the Ministry.





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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Tuesday, May 1, 2012

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### INTERNATIONAL YEAR OF COOPERATIVES

**Hon. Catherine S. Callbeck:** Honourable senators, 2012 has been declared the International Year of Cooperatives. According to the United Nations, this commemorative year is intended to raise public awareness of the invaluable contributions of cooperative enterprises to poverty reduction, employment generation and social integration. The year will also highlight the strengths of the cooperative business: They are owned and controlled by their members, and they have a distinct commitment to both economic development and social justice.

It is estimated that as many as 1 billion people are involved in the cooperative movement. The self-help principles on which the cooperative movement is based make an enormous contribution to the needs of the people of developing countries.

Here at home, cooperatives exist in virtually every sector of the Canadian economy. One can be born in a health care cooperative and be buried by a funeral co-op. In between, one can purchase a wide range of goods and services from groceries to insurance, find employment in a workers' co-op, live in a housing co-op, or engage in a broad range of economic, cultural and social activities carried out by cooperatives.

Cooperatives and credit unions have a huge impact on communities right across Canada. There are currently over 9,000 cooperatives and credit unions in this country, and 18 million Canadians are members of at least one of them. Some 70,000 people volunteer their time to become members of the boards of co-ops and credit unions. Co-ops and credit unions have combined assets of approximately \$252 billion, and they employ over 155,000 people. For example, the Desjardins movement in Quebec is the largest employer in the whole province.

Honourable senators, the International Year of Cooperatives provides a great opportunity to recognize the tremendous contributions that cooperatives make to the economic and social well-being of the people of the world. These community-based organizations care not only about the financial health of their businesses but also about the quality of life and standard of living of the people in the communities they serve. In so doing, they make a vital contribution to the health of our economy and the well-being of our fellow Canadians.

I ask you to join with me to pay tribute to the outstanding contributions made by cooperatives and credit unions and to wish them continued success in the future.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I would like to draw your attention to the presence in the gallery of Lyse Ricard, the Interim Senate Ethics Officer.

Honourable senators, I also wish to draw your attention to the presence in the gallery of members from New Brunswick of the Canadian Police Association: Dean Secord, Leah Secord, and John Thomson.

On behalf of all honourable senators, welcome to the Senate of Canada.

[Translation]

### ASIAN HERITAGE MONTH

**Hon. Donald H. Oliver:** Honourable senators, I rise today to draw your attention to Asian Heritage Month. Every May, we pay tribute to the many contributions that Asian-Canadians have made to the creation of our diverse country.

[English]

Prime Minister Harper once said:

Canada is a country where people from very different cultural backgrounds have bonded together to create a pluralistic and inclusive society. . . .

Asian Heritage Month provides an opportunity, not only to celebrates the rich heritage of Asian Canadians, but also to recognize the important role that they have played in building our great country. . . .

In 2002, the Government of Canada signed an official declaration to recognize May as Asian Heritage Month. It reads as follows:

[Translation]

Diversity represents one of Canada's greatest strengths, and we strive to ensure that all Canadians have the opportunity to reach their full potential and participate in Canada's civic life.

[English]

Over the last two centuries, immigrants have journeyed to Canada from East, Southern, Western, and Southeast Asia, bringing our society a rich cultural heritage representing many languages, ethnicities and religious traditions. The people of this diverse, vibrant and growing community have contributed to every aspect of life in Canada, from the arts and science to sport, business and government.



• (1410)

Honourable senators, this month-long celebration gives Canadians a opportunity to learn more about the many contributions of Asian Canadians to create our diverse nation. I think, for instance, of such outstanding Canadians as Chinese-born fashion designer Alfred Sung; Quebecer Kim Thuy Ly, best-selling author of Vietnamese ancestry; Douglas Jung, Canada's first M.P. of Chinese extraction who helped thousands of Chinese regularize their status; and the Honourable Bal Gosal, Minister of State for Sport who was born in India.

Throughout the month, events and activities will be organized in cities across Canada to celebrate Asian-Canadian heritage.

In Ottawa, Asian Heritage Month festivities include a special event on May 16 at the Ottawa Public Library, where children of Asian immigrants will share their stories. Member of parliament Michael Chong will be a featured speaker.

Honourable senators, there are nearly four million Canadians of Asian ancestry in Canada today and there are dozens of Asian communities across the country. Each one contributes to Canada's diverse landscape through their fascinating cultures, traditions and histories. They are an integral part of Canada's diversity. Please join me in celebrating their legacy by recognizing Asian Heritage Month and honouring their countless contributions.

#### BUY-A-NET

##### MALARIA PREVENTION

**Hon. Mobina S. B. Jaffer:** Honourable senators, for a number of years I have been working alongside M.P. Patrick Brown as the Vice-Chair of the All-Party Parliamentary Malaria Caucus. In addition, I work closely with Buy-A-Net, an Ontario-based charitable organization, as well as a number of other organizations, to help eradicate malaria.

I would like to take this opportunity to acknowledge the work of two amazing Canadian women, Ms. Debra Lefebvre and Ms. Gail Fones, as well as an amazing Ugandan woman, Ms. Sarah Komugisha, all of whom are members of the Buy-A-Net organization. I would also like to acknowledge the work of Dr. Martin Nkundeki, who has been the resident volunteer in Uganda for over six years.

Last Wednesday, April 25, as the international community commemorated World Malaria Day, I returned to Katagoo, a village in Uganda, where I joined members of Buy-A-Net and distributed over 500 insecticide-treated mosquito nets. I first visited this village when Senator Stewart Olsen and I accompanied Prime Minister Harper to Uganda for the Commonwealth Conference. I visited this village on behalf of the Prime Minister and Canadians and, over the last six years, I have returned to this area a number of times.

Over the years I made several friends in Katagoo, one of whom is Irene. Irene and I are both grandmothers, and six years ago we bonded over the fact that we both had just become grandparents. We both have always had many stories to share about our precious grandchildren, Adam and Ayaan.

Last Wednesday, Irene was uncharacteristically quiet. As I observed her, I was disturbed by her silence, so I went over to her

and asked why she was so quiet and unhappy. Tearfully, she explained to me that I had arrived with the nets too late as her grandson Adam had died of malaria. I hugged Irene and struggled to find words to console her.

Honourable senators, malaria is one of the leading causes of death for children under the age of five and has claimed the lives of many children living in Sub-Saharan Africa, just like Adam. In fact, every 50 seconds a child in Africa dies of malaria. Sarah, Dr. Martin and I, along with many village volunteers who joined us in distributing the bed nets, had a rough day. Sarah, who had spent a number of hours making sure that all the arrangements had been made, was very disappointed that the weather would not cooperate.

However, as we ventured out into the villages last Wednesday, not even the torrential downpour was able to dampen the spirits of those who were anxiously waiting to receive bed nets.

These mosquito nets, which can cover up to four people at a time, act as a wall of defence and protect families from contracting malaria. Ownership of these nets has proven to reduce child mortality rates of children under the age of five by 23 per cent. Unfortunately, with heavy hearts, we had to turn away several families because we ran out of nets to distribute.

Honourable senators, the effect of malaria on developing countries is crippling. We, as Canadians, have the resources and the power to lead the fight against malaria; now, we just need the will.

##### THE LATE JEAN OSTIGUY, O.C.

**Hon. Hugh Segal:** Honourable senators, I rise today to pay tribute to a great Canadian, soldier, business and community leader, Jean Ostiguy, who passed away on March 31 in Quebec. This great Canadian served his country tirelessly and with both style and courage in peace and war.

In World War II, Mr. Ostiguy served in the Italian campaign as a captain in the 4th Princess Louise Dragoon Guards and was wounded at Monte Cassino. He was a distinguished graduate of the Royal Military College in Kingston and a lifetime member of the RMC Club. He was honoured recently by being posted on the college's wall of honour.

In private life after the war, he rose to the top of Canadian and Quebec business, having been elected President of the Investment Dealers Association of Canada and having been the founding President and CEO of the Richardson investment bank in Quebec, which is a combination of other investment groups in Quebec. He served on numerous corporate boards, but also made time for his community, giving back always to the country and community whose freedom he defended in World War II. Centraide, Hôpital Jean-Talon, the Royal Victoria Hospital, the Canadian Council of Christians and Jews, and Collège militaire royal all benefited immensely from his tireless donation of time and resources.

For 45 years Mr. Ostiguy was associated with the Maison des Étudiants Canadiens in Paris, an organization he started and helped sustain for decades, following in the footsteps of its founder, his grandfather, Senator Joseph-Marcelin Wilson, who began the roots of the project on the Cité Internationale site in



Paris. His Legion of Honor of France, his Order of Canada, his Honorary Lieutenant-Colonel's post of the Régiment de Maisonneuve, and his Honorary Doctorate of Laws from RMC all underline how much he was loved, appreciated and how much he will be missed.

Jean Ostiguy lived a life of patriotism, community service, business leadership and love of family. He brought elegance, style and civility to everything he did, all he touched, and the country and province he called home. Canada and the world are far better places for the 90 years he lived, worked and served others among us.

[Translation]

## CITY OF BAIE-COMEAU

### SEVENTY-FIFTH ANNIVERSARY

**Hon. Ghislain Maltais:** Honourable senators, 2012 marks the 75th anniversary of the City of Baie-Comeau. Colonel Robert McCormick, owner of the *Chicago Tribune*, founded Baie-Comeau in 1936, choosing the location because it was in a large forested area rich in water and mineral resources.

Baie-Comeau was founded a few years before Canada's entry into World War II. Dozens of workers left the construction site of the Quebec North Shore Paper Company and served our country. Many never returned. Those who did made an extraordinary contribution to the building of Baie-Comeau.

The City of Baie-Comeau is surrounded by priceless hydro-electric resources. Using its three great rivers, the town produces 10,000 kilowatts of electricity, which is a very large part of the electricity destined for New York City and the provinces of Ontario and Quebec. Of course, the city has attracted other businesses.

In 1956, Canadian British Aluminum built an aluminum plant that today belongs to Alcoa and is one of the largest aluminum plants in the world.

The quality of the city's workers and the determination of its municipal councils and managers have made Baie-Comeau one of the most dynamic cities in northern Quebec. Its seaport, which is accessible 12 months of the year, has attracted businesses from western Canada. Cargill Grain stores grain in Baie-Comeau destined for Europe and the Middle East.

Baie-Comeau is the gateway to northern Quebec and, with Quebec's Plan Nord, it has a promising future. This will always be true thanks to the great people who live there and who make Baie-Comeau a wonderful place to live.

The people of Baie-Comeau have good reason to celebrate their 75th anniversary this year. Some very well-known people have left Baie-Comeau to fill important positions in Canada, including the Right Honourable Brian Mulroney, who raised Baie-Comeau's profile across Canada and around the world.

The emblem of the City of Baie-Comeau is the North Star. In the next 25 or 50 years, Baie-Comeau will continue to be a bright, shining star with citizens who are happy to participate in the economy's development.

• (1420)

The City of Baie-Comeau serves as a fine example because it was founded by anglophones and francophones who have always lived in perfect harmony and continue to do so today without any problems or conflict. The residents of Baie-Comeau have every reason to be proud and to celebrate. I will be there on May 20, to join in the festivities to celebrate this anniversary. We will attend a mass at the first cathedral in the Gulf of St. Lawrence, the Sainte Amélie Cathedral. This celebration will allow everyone on the North Shore to gather together and look to the future.

Happy anniversary Baie-Comeau!

## ROUTINE PROCEEDINGS

### PRIVY COUNCIL

#### REGULATIONS AMENDING THE SPECIAL ECONOMIC MEASURES (BURMA) REGULATIONS TABLED

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government):** Honourable senators, pursuant to section 7 of the Special Economic Measures Act, I have the honour to table, in both official languages, copies of the Special Economic Measures (Burma) Regulations and the Special Economic Measures (Burma) Permit Authorization Order, announced on April 24, 2012.

### CRIMINAL CODE

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.)

### CRIMINAL CODE

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-310, An Act to amend the Criminal Code (trafficking in persons).

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Comeau, bill placed on the Orders of the Day for second reading two days hence.)



## L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

BUREAU MEETING, CONFERENCE OF BRANCH  
CHAIRS OF THE AMERICAS, STEERING COMMITTEE  
OF THE NETWORK OF WOMEN PARLIAMENTARIANS,  
EDUCATION, COMMUNICATION AND CULTURAL  
AFFAIRS COMMITTEE, AND INTER-PARLIAMENTARY  
CONFERENCE ON THE DIVERSITY  
OF CULTURAL EXPRESSIONS, JANUARY 30  
TO FEBRUARY 3, 2011—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF) respecting its participation at the Bureau Meeting, the Conference of Branch Chairs of the America, the Steering Committee of the Network of Women Parliamentarians, the Education, Communication and Cultural Affairs Committee, and the Inter-Parliamentary Conference on the Diversity of Cultural Expressions (CIDECE) held in Quebec City, Quebec, Canada, from January 30 to February 3, 2011.

MEETING OF THE POLITICAL COMMITTEE,  
MARCH 14-16, 2012—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF) respecting its participation at the Political Committee of the Assemblée parlementaire de la Francophonie, held in Lomé, Togo, from March 14 to 16, 2012.

## HUNGER AWARENESS WEEK

### NOTICE OF INQUIRY

**Hon. Percy Mockler:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to Hunger Awareness Week, an initiative of the Food Banks of Canada from May 7-11, 2012 and the challenge calling on Parliamentarians to fast on May 9, 2012 in order to experience what hunger feels like for hundreds of thousands of Canadians.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### F-35 AIRCRAFT PURCHASE

**Hon. Wilfred P. Moore:** Honourable senators, my question is for the Leader of the Government in the Senate.

The Parliamentary Budget Officer has stated that the government has been keeping two sets of books on the F-35 procurement costs. The Minister of National Defence has said that he and the cabinet were aware of the discrepancy between the \$16 billion quoted to the media and the \$25 billion stated by the Department of National Defence to cabinet versus the actual \$29 billion reported by the Parliamentary Budget Officer.

Why did the government not come clean with Parliament and Canadians on the actual cost of the F-35 program?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, with regard to the Parliamentary Budget Officer, there are not two sets of books. The Auditor General clearly reported on this file and, of course, did not say there were two sets of books. I believe also that the newspaper accounts of the appearance of Minister of National Defence before the Senate committee last night were not accurate.

I believe that DND did release the acquisition cost for the F-35. The Auditor General said that we should have additionally provided operating costs such as fuel and pilot salaries that are currently also incurred with the CF-18s and would exist with any aircraft purchased by Canada.

The Auditor General said in his report that we should have released all the operating costs and the government has, of course, agreed with that recommendation. We will not proceed with a purchase until the seven points that we outlined in response to the Auditor General's report are completed and developmental work is sufficiently advanced. This includes freezing funding and establishing a secretariat to lead this process moving forward.

**Senator Moore:** Honourable senators, Al Capone also had accounting issues.

I am most interested to hear the explanation of the leader of how DND and the Department of Public Works have somehow managed to provide a dissenting opinion to the Auditor General's report on the F-35 procurement. In fact, today in the Public Accounts Committee in the other place, DND officials rejected the estimated cost of \$29 billion for the F-35 program that has been put forward by the Parliamentary Budget Officer. They argued that the Auditor General was wrong when he said key financial figures were kept hidden from Canadians.

Could the leader explain to this chamber how it is possible that, after the scathing report by the Auditor General, these departments could find reason to disagree with his findings? Does the government agree with him or with the two departments?

• (1430)

**Senator LeBreton:** I just heard about the appearance this morning before a committee in the other place. Obviously, the government accepts the recommendations of the Auditor General. That is why we are establishing a new secretariat to play a lead coordinating role in replacing the CF-18 fleet. As indicated when we announced this a couple of weeks ago, we will be providing regular updates to Parliament.

**Senator Moore:** I am pleased to hear that the leader is accepting the report of the Auditor General as opposed to the opinions of the two departments in question.

[English]



On Wednesday, April 4 of this year, Senator Cowan asked this question of the leader:

The fact of the matter is — to use the leader's term — that he was right and you were wrong. His estimate has now been validated by the Auditor General.

I think he was speaking about the Parliamentary Budget Officer. He went on to say:

Did it ever occur to the leader that she might not be getting the straight goods here and that the information that the Parliamentary Budget Officer had provided — and he had no axe to grind and no particular skin in the game on this situation; he was doing the best job he could with the information he had — might be right, as he has been proven to be right this time, that time and all the other times?

In reply, the leader said:

I answered that a few moments ago. When I saw what the Parliamentary Budget Officer had to say, I tended to discount it because he has a record of being wrong more often than he has been right.

Yesterday before the Standing Senate Committee on National Security and Defence, the Minister of Defence stated that cabinet knew the full cost of the F-35 procurement before the last election. I would like to know: Why did the Leader of the Government in the Senate, and as a member of cabinet, tell this chamber that the Parliamentary Budget Officer's numbers were discounted by her when she knew full well his numbers were accurate?

**Senator LeBreton:** The honourable senator quoted me correctly, and I will repeat again that — and do not take my word for it; take the word of *The Globe and Mail*, which did a comparative analysis of the reports of the Parliamentary Budget Officer and those of the Department of Finance — the Department of Finance was correct more often than the Parliamentary Budget Officer.

The Parliamentary Budget Officer is flat out wrong in saying there were two sets of books. The Auditor General very clearly pointed out that in addition to the purchasing cost of the aircraft — which was well known and reported by National Defence and the government — the operating costs should also have been added to it. I think the Department of National Defence was using 20 years and I think the Auditor General thought it should be over 36 years. However, the fact of the matter is that the government had a base amount of money we were prepared to spend on the F-35s, and obviously the acquisition cost of the F-35s has not changed for quite some time.

The question here was that the Auditor General felt, and we now agree and we have accepted his recommendation, that the operating costs, maintenance, the costs of the pilots, the costs of

the acquisition and the costs of operating the F-35s should have been in the figure. This is what the Auditor General wants and this is what the government will do.

I will point out there is a freeze on the file. We have a secretariat looking at the matter, and the government has expended no costs. We have not signed a contract, and no taxpayer dollars have been used to purchase these aircraft.

**Senator Moore:** Is the leader telling the chamber and Canadians that when the costs of this program were presented to them the costs of operating and maintaining the fleet of airplanes were not included?

**Senator LeBreton:** I think if the honourable senators look at my answers in the past, the estimated unit cost of the F-35s has been well known. In his report, the Auditor General said that in addition to the acquisition costs for the F-35s, we should have provided operating costs such as jet fuel and pilots' salaries — which are costs that are incurred in the operation of any aircraft — and we should have included all the operating costs. I think he wanted 36 years and the Department of National Defence had originally done an estimate of 20 years.

The Auditor General wanted the full costs of the full lifespan of the F-35. The government agreed. That was the one recommendation the Auditor General made. The government agrees with the Auditor General; we have frozen the funds and set up the secretariat, and no aircraft have been purchased. The secretariat is taking a lead role in coordinating the procedure followed to replace the CF-18 fleet, and as I indicated the government will provide updates to Parliament on the cost estimates.

**Hon. Roméo Antonius Dallaire:** I do not think the Auditor General is the Pope, so he is not infallible. Nor do I think that overreaction is also a smart government decision. Let me give just one example from that report, which the government should have given far more thought to in its reaction rather than starting to create a whole bunch of other means, which will slow down the actual acquisition.

The CF-18 has gone through two major upgrades and refits in its lifespan. These were never computed in the life costs of the aircraft. If we are going to keep that aircraft for 36 years, you can bet your bottom dollar that there will be a major refit sometime in there because the technology and the usage will require that.

Now, that is not in the Auditor General's report. In my opinion if he is that competent and that capable, then the figures that he is presenting are lacking significantly in depth in comprehending the procurement system, but also really looking at the full costs of it.

Does the leader still say that his report is worthy of the government's making all these changes in the procurement process in order to achieve a responsible acquisition of the F-35s?

**Senator LeBreton:** I thank the honourable senator for that question because he makes the point that is part of the problem. The Auditor General made some recommendations. We accept the Auditor General's recommendations. Senator Dallaire makes the point that a lot of people have argued that it is impossible to properly estimate the actual price. We know the purchase price of

the F-35s, but the Auditor General has suggested that we build in all of the maintenance and operating costs of the F-35s. That is what the secretariat is now setting out to do.

The honourable senator is quite right, and many people in the military have made the same argument. Five years down the road we do not know what the requirements will be. It might require additional maintenance or it might require — who knows? I use the analogy of my little 2002 Ford Focus. It is a great little car, the best car I ever owned. I paid \$23,000 for it, but if I look at that car and factor in my salary when I am driving — maintenance, two sets of tires for winter and summer, insurance, gas, the cost of the roads that I drive on, I figure my little Ford Focus is worth \$150,000. That is the mug's game we are into here, so I totally agree with Senator Dallaire.

• (1440)

We were dealing with the acquisition costs of the F-35. The Auditor General made a recommendation that we should factor in all the operating costs. Whether people agree with the Auditor General or not, we accept his recommendations and the government is now setting out to respond. We set up the secretariat and we are dealing with the recommendations of the Auditor General as he has instructed the government.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, the leader has said in response both to Honourable Senators Moore and Dallaire that the acquisition cost is known. What is the acquisition cost of the 65 F-35 aircraft?

**Senator LeBreton:** We have set aside — I think the budget was \$9 billion, but I do not have the figure for the unit costs in front of me. I will take that question as notice. I did put that on the record, but there are so many figures flying around here.

The fact is that the government always talked about having this envelope of money to replace the aircraft. We were aware of the estimated unit costs of the aircraft. Of course, we know that this is a development aircraft and that the project was started some considerable time ago under the previous government. We had an envelope of money that we were prepared to use for the replacement of the CF-18s.

The Auditor General looked at this file. We all know what the Auditor General's report said about the roles of Industry, National Defence and Public Works in this. We have set up the secretariat to oversee this. We have frozen the program and indicated we will report to Parliament. There is nothing more I can add at the moment.

**Senator Cowan:** A lot has been said and there is a lot of confusion. The leader said twice here today that the acquisition cost of these aircraft is known. Leaving aside the issues about other costs — ongoing maintenance costs — I am simply asking the leader to give us what the government currently believes is the acquisition costs of 65 F-35 aircraft.

**Senator LeBreton:** I have indicated that we have set aside a budget for the acquisition of the F-35s. We always said we would stay within that budget. The Auditor General has asked us to factor in other costs, which we are doing. We set up the secretariat. Again, we have expended no taxpayers' dollars on these aircraft.

I will take the question as notice.

**Senator Cowan:** I am not interested in the fact that the secretariat has been set up and it will look at all these other things. The leader said twice today that she knew the acquisition costs of 65 F-35 aircraft. I just need a number.

**Senator LeBreton:** I was referring to the testimony of the minister last night before the Senate committee. The question seems to be, and this is what seems to be confusing the public, about the unit cost of the aircraft. There was an estimated figure — I will have to get back to Senator Cowan — and then the operating costs were added in.

As Senator Dallaire points out, many people believe that it is very hard to estimate the operating costs of any particular piece of equipment. We do not know what we will be facing over 36 years.

Having said that, the government did have a set budget for the acquisition of the aircraft. All of this now is on hold; the funds have all been frozen. There is a secretariat looking at the whole program, and the government will report to Parliament.

**Hon. Jane Cordy:** The Auditor General, as the leader said, recommended that these operating costs and maintenance costs be included when determining the unit costs. She has said that the government is accepting these recommendations, but it has been my understanding that in the past it was standard practice that these operating and maintenance costs be included. Why did this government not include them? Why did it make a change? To say that the Auditor General is recommending this is like saying it is something new that has come out of the sky. This is not new; this has been standard practice in the past. Why was it not included when the government was giving these costs to us?

**Senator LeBreton:** The Department of National Defence did release the acquisition costs for the F-35. I was not privy to the testimony at the committee this morning, but the Department of National Defence seemed to indicate that they had the acquisition costs and then they had the operating costs. This is why the secretariat has been put in place. The Auditor General pointed out that among the Department of National Defence, the Department of Industry and the Department of Public Works there was obviously some — I do not know whether it was misunderstanding or what the procedure was. The fact of the matter is that in addition to the acquisition costs for the F-35, the Auditor General asked that all of the costs — operating, maintenance, fuel, salaries of pilots — be factored into each aircraft so that each one would not only have the acquisition costs but all the costs associated with that aircraft through its lifetime. That is what the government has now agreed to do at the request of the Auditor General. That is why we have set up a secretariat. That is why we have frozen the funds, and that is why there will be a procedure in place to go through the various steps. As I indicated, we will report to Parliament.

**Senator Cordy:** For the Auditor General to recommend that all costs be factored in is not brand new. This has been standard practice and policy for years and years. The change was in the government not including them. I ask the leader again, why did her government not factor in all costs?



In fact, I remember Minister MacKay saying, “Well, when someone buys a new car, they will not factor in the cost of insurance and gas to determine whether they can afford it.” I would say that it would be a very poor planner who would not include whether they could afford the cost of insurance and gas before buying a car.

In the same vein, I say again, why did this government not factor in all costs? Why did it have to wait for the Auditor General to come out and suggest that the government should be doing something that had been done in the past?

**Senator LeBreton:** I think I have been clear, honourable senators. With Senator Dallaire’s question, there are different points of view between the acquisition costs and the operating costs. The Auditor General pointed out to the government, to DND and Industry Canada — and senators can read his report — the processes followed. The Auditor General made one recommendation in the report, and that one recommendation was that for each aircraft it should have been not only the acquisition costs but the total operating costs, all the maintenance and everything for the life of the aircraft. I believe the Auditor General indicated it was for 36 years, although, as Senator Dallaire indicated, there is some question as to what the practice was in the past.

The fact is that there was something seriously wrong in the process among DND, Industry and Public Works. That is why the government froze the project and is setting up this secretariat. We have a seven-point plan now that we are following, all of which reported to Parliament. There is nothing more I can add.

[Translation]

## FINANCE

### FINANCIAL SYSTEM

**Hon. Céline Hervieux-Payette:** Honourable senators, let us continue with financial matters. We might wonder if the government should take remedial Math 101.

• (1450)

This morning, as I was studying a report by the Canadian Centre for Policy Alternatives, I read the following:

The Conservative government secretly lent more than \$114 billion to Canadian banks, although the Prime Minister and the Minister of Finance boasted around the world that the federal government did not have to bail out Canadian banks at the beginning of the financial crisis.

I have raised the issue a number of times but without mentioning the amount of \$114 billion, which includes amounts from the United States and various other sources. This secret loan represents almost \$3,400 per Canadian, which amounts to more money per taxpayer than the U.S. provided to American banks.

In the U.S., the figures were made available to journalists and the public whereas in Canada many documents had to be closely examined and studied in detail in order to arrive at this conclusion.

How can the government expect Canadians to believe that the financial system does not need reform and oversight when it secretly lends money to banks to prevent their bankruptcy? How can this government continue to pay millions of dollars annually to the CEOs of Canadian banks?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** I am aware of the report and the organization that prepared it. I look at reports like that and consider the source. I did see that.

I have no knowledge whatsoever as to what the basis of that report is, so I will take the honourable senator’s question as notice.

[Translation]

**Senator Hervieux-Payette:** The minister has access to all the data. She should go through the same exercise and seek information from several sources. All these people with doctorates in economics can at least give us the figures that the government is not providing. I will continue with the following:

[English]

The Bank of Canada has stated that Canadian homes are overvalued by 35 per cent. The Canadian debt-to-income ratio is close to 153 per cent. I raise that regularly because it is going up. The Canadian job market is far from being in good shape.

The Conservative government even went so far as to allow the Canada Mortgage and Housing Corporation to purchase \$69 billion of mortgage policies from Canadian banks, effectively transferring the risks banks took with unsustainable mortgages onto the backs of Canadian taxpayers. I was dumbfounded to read that the Minister of Finance was tasking the Office of the Superintendent of Financial Institutions last week to oversee CMHC to prevent it from insuring risky mortgages and putting the organization at risk as well as the government. However, the Minister of Finance and his department have promoted this risky behaviour and changed the rules in order for CMHC to do that.

Why is the Conservative government trying to shift the responsibility onto OSFI when it is the Minister of Finance and his own department who are responsible for putting the Canadian housing market at risk?

**Senator LeBreton:** Actually, that is not true. Just as in the honourable senator’s previous question, she accepts the word of a left-wing policy institution, the Canadian Centre for Policy Alternatives, that claims that there have been bailouts of our banks. There is no basis for those claims at all. With the honourable senator’s financial background, she would certainly have known if that were the case.

With regard to the new code of conduct on mortgage prepayment information, the Minister of Finance has stepped quite regularly into the housing market. We have previously strengthened mortgage rules to protect Canadians buying homes, reduced the maximum mortgage period to 30 years, significantly reduced interest payments that families can make on their mortgages, and are lowering to 85 per cent the maximum amount lenders can provide when refinancing mortgages.

We have introduced Bill C-28 to provide for the appointment of a financial literacy leader; we have introduced credit card reforms to ensure Canadians have the information they need; our code of conduct is welcomed by consumer groups and especially small businesses; and we continue to monitor compliance, with any possible violations being investigated. With regard to Canada Mortgage and Housing Corporation, the minister has now taken additional steps.

All of this is intended to continue to secure Canada's leading role in the world with regard to the financial health of our country. The Minister of Finance is to be commended because he and Canada are recognized around the world, with all leading economies, as being a leader on the whole issue of financial management.

**Senator Hervieux-Payette:** The Leader of the Government in the Senate was the one who introduced bills about accountability and also talked about transparency. I want her to be transparent and look into the figures she has with the Minister of Finance. CIBC received a government bailout of \$21 billion representing 148 per cent support of the bank's value; in fact, we could have bought the shares and owned the bank. At least we would not have paid the president millions of dollars. BMO received a bailout worth \$17 billion representing 118 per cent and Scotiabank a bailout worth \$25 billion representing 100 per cent of its value. That means that these banks were almost bankrupt, if not bankrupt, technically.

Find the figures and contradict them rather than criticizing this organization that did excellent work. I encourage honourable senators on both sides of the Senate to read the report and see where Canada is in terms of financial difficulty and what we can expect in the future if we have a recession.

**Senator LeBreton:** First, the honourable senator would know that the government did take timely and effective actions supporting lending to Canadian households and businesses through the Extraordinary Financing Framework, which was publicly and repeatedly laid out from the very start. There is no big secret here. That most recently includes the last budget.

To suggest, honourable senator, that this has not been clear to Canadians is incorrect. As publicly noted, the Insured Mortgage Purchase Program will have generated an estimated \$2.5 billion in net revenue for taxpayers. The government has taken the proper steps in securing our housing market and ensuring that we are and continue to be concerned about Canadian household debt. We believe we are on the right track in addressing these issues.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the answers to oral questions raised by Senator Chaput

on February 29, 2012, concerning electoral boundaries, and by Senator Jaffer on March 7, 2012, concerning the United Nations Convention of the Rights of the Child.

## ELECTIONS CANADA

### ELECTORAL BOUNDARIES

(Response to question raised by Hon. Maria Chaput on February 29, 2012)

**How were the names of members of electoral boundaries commissions obtained? What was the process? Were there any interviews conducted, recommendations made, or CVs obtained? How did the Government ensure that these 20 members are a diverse group? Were there directives in this regard and, if so, by whom were they issued?**

Pursuant to section 4 of the *Electoral Boundaries Readjustment Act*, electoral boundaries commissions consist of three members, a chairperson and two other members.

- Section 5 of the *Electoral Boundaries Readjustment Act* provides that the chairperson of each commission is appointed by the chief justice of the province from among the judges of the court over which the chief justice presides.
- Section 6 of the *Electoral Boundaries Readjustment Act* provides that the other two members of each commission are appointed by the Speaker of the House of Commons "from among such persons resident in that province as the Speaker deems suitable".

Electoral boundaries are drawn by independent, non-partisan boundary commissions. The Government has no role to play in the appointment of commission members or the drawing of electoral boundaries.

**Will the Government ensure that these commissions take official language minority communities into account during this process?**

Pursuant to subsection 15(1) of the *Electoral Boundaries Readjustment Act*, electoral boundaries commissions must draw boundaries so that the population of each electoral district in the province "shall, as closely as reasonably possible, correspond to the electoral quota for the province".

However, commissions may depart from this rule where "the commission considers it necessary or desirable" in order to "respect the community of interest or community of identity in or the historical pattern of an electoral district in the province" or to "maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of the province".



For the purposes of the *Official Languages Act*, electoral boundaries commissions are federal entities. Each electoral boundaries commission is therefore subject to the requirements of the *Official Languages Act*.

**Are the existing commissions going to hold only one public hearing or several? Will those public hearings be announced in a manner that gives the communities time to prepare their response?**

Subsection 19(1) of the *Electoral Boundaries Readjustment Act* requires electoral boundaries commissions to hold “at least one” public hearing to hear representations by interested persons. However, commissions typically hold several public hearings in the course of their deliberations.

- Commissions must give notice of the time and place for public hearings by advertisement in the *Canada Gazette* and in at least one newspaper of general circulation in the province at least 30 days before the day on which the hearings commence.
- Persons interested in participating in the public hearings are required to give notice in writing within 23 days of the advertisement of the public hearing, although commissions may waive this requirement if they decide it is in the public interest to do so.
- Commissions also accept written submissions from interested parties.

## FOREIGN AFFAIRS

### THIRD OPTIONAL PROTOCOL ON CONVENTION OF THE RIGHTS OF THE CHILD

*(Response to question raised by Hon. Mobina S.B. Jaffer on March 7, 2012)*

Children’s rights are of priority concern within Canada’s foreign policy and development assistance. Canada is a party to the Convention on the Rights of the Child and its first two Optional Protocols. Canada is an active co-sponsor and supporter of the resolutions relating to child rights presented at the UN General Assembly and the Human Rights Council.

As with all international treaties, Canada will conduct a careful examination of the third Optional Protocol before it makes a decision.

The Government of Canada continues to work collaboratively with the provinces, territories and Canadians to promote and protect children’s rights.

The rights of children in Canada are protected by domestic laws and policies at the federal and the provincial / territorial levels. In addition, the Canadian Charter of Rights and Freedoms guarantees many rights that protect children. Domestic remedies for violations of

children’s rights are available in Canadian courts. Children are also able to bring complaints under human rights legislation, such as the Canadian Human Rights Act.

The rights of children at both the domestic and international levels remain a priority for our government and we continue to work hard to advance this issue.

## ORDERS OF THE DAY

### PROHIBITING CLUSTER MUNITIONS BILL

#### SECOND READING—DEBATE ADJOURNED

**Hon. Suzanne Fortin-Duplessis** moved second reading of Bill S-10, An Act to implement the Convention on Cluster Munitions.

She said: Honourable senators, Canada has recognized for a long time that explosive remnants of war, including cluster munitions, cause humanitarian consequences for civilians. Throughout the world, these weapons cause serious harm to social and economic development; threaten access to essential infrastructure; and injure, mutilate or, too often, kill innocent people.

• (1500)

Cluster munitions can be dropped from the air or launched from the ground. They disperse dozens or even hundreds of explosive submunitions, which can cover a large area in a short time, causing widespread damage and indiscriminate harm, particularly when they are used in or near populated areas. What is more, many of these submunitions do not detonate as anticipated and remain on the ground, which makes them a serious threat. They have the same effect as mines and may injure or kill civilians long after a conflict has ended. To date, it is estimated that these weapons have been used in approximately 34 countries and territories, often with devastating consequences. Nearly 98 per cent of all recorded cluster munitions casualties have been civilian.

For a long time, Canada has played a prominent role on the international stage in protecting civilians from explosive remnants of war. Honourable senators will no doubt remember that, in the 1990s, Canada led the way through the development, implementation and universal ratification — which is ongoing — of the Ottawa Convention on Landmines.

Today, we continue to fulfill this long-term commitment. That is why we are proud to present the bill prohibiting cluster munitions, which will make it possible to fully implement the Convention on Cluster Munitions in anticipation of Canada’s ratification of this important treaty.

Canada was an active participant in the development of the convention, which was adopted in Dublin in May 2008 and came into effect in April 2010. Canada was among the first 94 countries to sign the convention in December 2008, and our country’s key

contribution throughout the negotiation process is widely recognized. Right now, 71 countries are party to the convention and 40 others have signed but not yet ratified it.

The government is determined to achieve the objective of banning cluster munitions, and it is convinced that the convention strikes a fair balance between humanitarian and security considerations. In addition to setting high humanitarian standards where cluster munitions are concerned, this document also allows the signatories, under section 21, to continue to engage in combined security operations with allies that have not signed — operations considered to be essential to international security — without breaching their duties under the convention.

This balance is important for Canada. Our country and a number of other allies have made that balance a top priority from day one of the negotiations of the convention. A number of major allies and signatories to the convention continue to subscribe to the importance of this balance. It allows us to solidify our objective to rid the world of cluster munitions while ensuring that the Canadian Forces can continue to participate in multinational operations with allies that are important to Canada but have not signed the convention, such as the United States.

The proposed Prohibiting Cluster Munitions Act is the expression of this balance. First, it allows Canada to apply its humanitarian standards and fulfill its obligations by unequivocally prohibiting the offences listed in the convention. More specifically, the act prohibits the use, development, production, acquisition, possession, transfer, import or export of cluster munitions. It also prohibits the stockpiling of cluster munitions on Canadian soil, since it prohibits any form of possession.

What is more, under the bill it is prohibited to assist, encourage or induce anyone to engage in any prohibited activity including knowingly and directly investing in the production of cluster munitions.

Second, the act allows Canada to continue to participate effectively in joint military operations with allies who are not party to the Convention. It provides for exceptions that give our military personnel the legal protection required to participate in operations with armed forces of countries that are not party to the Convention.

In this regard, it should be noted that multinational operations are of crucial importance for our national security interests and they permit us to make an international contribution. It is important that our men and women in uniform not have to accept unnecessary responsibility when carrying out their duties in such operations. These exceptions also apply to personnel on secondment to allied forces. Such exchanges contribute to the preservation of the unique military cooperation of Canada and the United States, which has incomparable benefits in terms of security, defence and industrial operations.

Having said that, members of the Canadian Forces are still prohibited from using cluster bombs in Canadian Forces operations and their use is strictly prohibited when they are solely responsible for choosing which munitions to use. In addition, the Canadian Forces will prohibit their members, through official policies, from using cluster munitions, training

themselves or others in their use when they participate in exchanges with the armed forces of another country. Moreover, the transport of cluster munitions by means of transportation belonging to or controlled by Canadian Forces shall be prohibited.

Canada has never manufactured cluster munitions and has never used them in its operations, and the Canadian Forces have already implemented important measures to ensure Canada's compliance with the convention. The Canadian Forces do have such munitions; however, they have been withdrawn from active service and the last stocks will be destroyed in the next few years, a process that is already well under way. We are convinced that their destruction will be completed within eight years of the convention entering into force for Canada, as prescribed.

Canada is already committed to actively promoting the implementation and universalization of the convention. Our country attended both meetings of the states parties as an observer and oversaw the development of a work plan and an informal implementation structure for the convention, both of which received approval.

I would add that Canada has always been an international leader in funding efforts to eliminate the explosive remnants of war.

• (1510)

As the fifth-largest international donor to this effort, our country contributed over \$30 million to such programs in 2010-11. Since 1999, we have contributed over \$370 million. Recently, the Minister of Foreign Affairs, the Honourable John Baird, announced that our government will contribute \$10 million to help Libya secure a number of weapons in the wake of the recent conflict, including explosive remnants of war.

In closing, Canada is determined to pursue its efforts to minimize human suffering caused by conventional weapons, including cluster munitions, and to promote the adoption, implementation and universalization of strict international standards, such as those set out in the Convention on Cluster Munitions. Once again, this government is proud to ratify the convention and to implement all of its provisions by passing a federal law. The government will continue to address Canada's security and defence imperatives while we wait for the universalization of the convention.

(On motion of Senator Hubley, debate adjourned.)

## INDUSTRIAL ALLIANCE PACIFIC INSURANCE AND FINANCIAL SERVICES INC.

### PRIVATE BILL—THIRD READING

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government)** moved that Bill S-1003, An Act to authorize Industrial Alliance Pacific Insurance and Financial Services Inc. to apply to be continued as a body corporate under the laws of Quebec, be read the third time.

(Motion agreed to and bill read third time and passed.)



[English]

## CONFLICT OF INTEREST FOR SENATORS

### THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Committee on Conflict of Interest for Senators, (amendment to the Conflict of Interest Code for Senators), presented in the Senate on March 29, 2012.

**Hon. Terry Stratton** moved the adoption of the report.

He said: Honourable senators, I am pleased to speak to the third report of the Standing Committee on the Conflict of Interest for Senators and recommend its adoption.

The Conflict of Interest Code for Senators was adopted in May 2005. At the time, it was emphasized that the code was a work-in-progress and that only time and experience would tell if the choices made at the time were the best possible.

As an evolving document, the code may at any time be amended to adapt its provisions to contemporary realities and to enhance public confidence and trust in the conflict of interest regime applicable to senators. In that regard, your committee was granted authority to exercise general and constant oversight over the conflict of interest regime applicable to senators.

As part of this mandate, the committee ensures that the provisions of the Conflict of Interest Code for Senators are clear and current. Your committee held numerous meetings since last fall to consider current issues relating to the conflict of interest regime applicable to senators. It met with the Senate Ethics Officer on two occasions. After thoughtful consideration, your committee is now proposing six amendments to the code. The objectives of these six amendments are: to adapt the provisions of the code to contemporary realities and practices; to avoid any misunderstanding about the outside activities of senators; to increase the transparency of the conflict of interest regime applicable to senators; and to enhance the public confidence and trust in the conflict of interest regime applicable to senators.

The first amendment that your committee is proposing is with respect to senators' employment, profession or business. There is currently some confusion regarding the disclosure of employment, profession or business. In section 28, the code provides a comprehensive list of the confidential disclosures senators must make to the Senate Ethics Officer. There is no express provision with respect to the disclosure of employment, profession or business. These are, however, often disclosed indirectly through the disclosure of sources of income.

Therefore, the committee proposes that a senator's employment, profession or business be disclosed to the Senate Ethics Officer, regardless of annual income. This disclosure requirement would be in addition to the existing disclosure requirements under section 28 of the code. This amendment would increase the transparency, accountability and public confidence in the conflict of interest regime applicable to senators. It would also avoid any misunderstanding about the outside activities of senators.

Second, your committee proposes public disclosure of income over \$2,000 annually and of assets and liabilities over \$10,000. Currently the code requires public disclosure of this information only for matters which could relate to the parliamentary duties and functions of the senator or could lead to a conflict of interest. This amendment would avoid any misunderstanding about the outside activities of senators. It would also increase the transparency of the conflict of interest regime applicable to the senators. Similarly, and for the same reason, information about the senator's employment, profession or business would also be included in the senator's public disclosure summary.

Third, the committee proposes that the senator's public disclosure summary be posted on the Senate Ethics Officer's website. Every year the Senate Ethics Officer prepares a public disclosure summary for each senator based on the information provided in our annual disclosure statements. While public disclosure summaries are public, they are made available to the public only in the office of the Senate Ethics Officer during business hours or by fax upon request. Your committee considers that these measures to provide access to our public disclosure summaries are not adapted to contemporary realities. It recommends that the public disclosure summaries be made available by utilizing more modern means of communication, as is the case in other jurisdictions, in addition to the existing measures through which they are made available to the public. This amendment would ensure that people from Halifax, Montreal, Winnipeg, Vancouver or Dawson City would have the same access to information about public officials as people living in Ottawa.

The fourth amendment we are proposing pertains to the confidential disclosure relating to spouses and common-law partners. Currently our disclosure obligations with respect to family members are limited to contracts with the Government of Canada and gifts and other benefits when these are acceptable and in accordance with the code. This information is disclosed confidentially to the Senate Ethics Officer and is also included in the senators' public disclosure summaries.

• (1520)

It was suggested that providing information relating to spouses and common-law partners would enable the Senate Ethics Officer to give meaningful advice about the real and potential conflict of interest involving senators' spouses or common-law partners.

Therefore the committee proposes that with respect to his or her spouse or common-law partner only, and not other family members, the senator should disclose confidentially to the Senate Ethics Officer the same type of information about his or her spouse that he or she discloses confidentially to the Senate Ethics Officer about himself or herself.

This disclosure would remain confidential and not be made public. This disclosure would be to the best of the senator's knowledge, information and belief, ascertained by the senator's reasonable inquiry. As I have said, this disclosure obligation would fall upon senators and not their spouses and common-law partners. A senator would have to make reasonable inquiries and report what he or she believes to be true.

The proposed fifth amendment would require that inquiry reports of the Senate Ethics Officer be made public upon completion. Under the current provisions of the code, the

Senate Ethics Officer reports confidentially to the committee upon the completion of an inquiry. The committee may then conduct an investigation and report to the Senate. The report of the committee and the report of the Senate Ethics Officer become public only when the committee reports to the Senate.

The committee proposes that an inquiry report from the Senate Ethics Officer should become public as soon as it is received by the committee and in the same form as it is received. The chair of the committee would table the inquiry report in this chamber at the first opportunity. If the Senate is prorogued or dissolved at the time, the report would be filed with the Clerk of the Senate.

I would like to underline that the name of the senator who was the subject of an inquiry would be kept confidential, as is the case at present if no breach of the code was found or if he or she requests that his or her name be kept confidential. This amendment would reinforce the independence of the Senate Ethics Officer, would ensure the integrity and public disclosure of his or her inquiry reports and would increase the transparency of the code.

The sixth and last amendment that the committee is proposing would facilitate senators' declarations of private interest. As all honourable senators know, each of us must make a declaration of private interest when we or members of our family have private interests that may be affected by a matter before the Senate or before a committee of which we are a member. The code currently requires that senators be present at the consideration of the matter in order to make a declaration of private interest. The committee proposes to allow written declarations of private interest without the requirement for the senator to be present at the consideration of the matter by the Senate or the committee.

As I have said, the purpose of this amendment would be to facilitate the declaration of private interest by senators.

The committee recommends that these six amendments to the code come into force on October 1, 2012. This would provide sufficient time for the committee and the Senate Ethics Officer to take any measures necessary to implement the new provisions of the code.

The Conflict of Interest Code for Senators is based on the power of the Senate to govern its internal affairs and discipline its members. This authority was entrusted to the Senate at the time of Confederation and has been part of its uncontested parliamentary privileges ever since. As a conflict of interest regime represents an exercise of its privileges by the Senate, the duties and functions accomplished and the information gathered in accordance with the code are, as a result, protected by parliamentary privilege and may be used only for the purpose for which they were gathered.

Conflict of interest rules for public officials have to meet a double threshold. They must be sufficiently open and transparent as regards the legitimate expectations of the public, and they must protect the legitimate expectancy of privacy of senators and their families. The committee believes that its six proposed amendments constitute an appropriate balance between these two criteria.

Honourable senators, it is without any hesitation that I recommend the adoption of the third report of the committee.

[ Senator Stratton ]

**Senator Joyal:** Question.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** It has been moved by Senator Stratton and seconded by Senator Andreychuk that the third report of the Standing Senate Committee on Conflict of Interest for Senators, amendment to the Conflict of Interest Code for Senators, presented in the Senate on March 29, 2012, be now adopted.

Is it your pleasure, honourable senators to adopt the motion?

**Hon. Senators:** Agreed.

**Senator Stratton:** I want to thank everyone in the chamber for this. A lot of work was done by the committee. The second in command is Senator Joyal, and he and Senator Andreychuk are long-serving members of the committee, along with Senator Angus. Senator Cordy — and I wish to thank her as well — and I are recent additions to the committee. I want to thank all the committee members for their work and thank honourable senators for their cooperation in this chamber.

While I am up, I would like to introduce Ms. Ricard, our new Interim Senate Ethics Officer. Hopefully, if we treat her appropriately, she may become our permanent Senate Ethics Officer. Welcome to you, madam.

**Hon. Senators:** Hear, hear!

**Senator Stratton:** His Honour was kind enough to send us all resumé of Ms. Ricard, which I suggest honourable senators read because it is a long, detailed and, I think, substantial resumé of her dedication to public service. Thank you.

(Motion agreed to and report adopted.)

## ABORIGINAL PEOPLES

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE EVOLVING LEGAL AND POLITICAL RECOGNITION OF THE COLLECTIVE IDENTITY AND RIGHTS OF THE MÉTIS—FIFTH REPORT OF COMMITTEE ADOPTED

Leave having been given to revert to Other Business, Reports of Committees, Order No. 1:

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Aboriginal Peoples (budget—study on the evolving legal and political recognition of the collective identity and rights of Métis in Canada—power to hire staff and to travel), presented in the Senate on April 26, 2012.

**Hon. Robert W. Peterson** moved the adoption of the report.

He said: Honourable senators, this is the fifth report of the Standing Senate Committee on Aboriginal Peoples. We propose to study the evolving legal and political recognition of the collective identity and rights of Metis in Canada.



This is a subject that, we are informed by our venerable chair, Senator St. Germain, has not been done before by our committee, a study of the Metis.

The report authorizes the committee to travel on fact-finding missions to hear from representatives of Metis in their communities in various locations in Canada — Western Canada, Northern Canada, northern Ontario and possibly the Maritimes.

Honourable senators, I would like to move the adoption of this report.

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

• (1530)

#### STUDY ON THE PROGRESS IN IMPLEMENTING THE 2004 10-YEAR PLAN TO STRENGTHEN HEALTH CARE

##### SEVENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Ogilvie, seconded by the Honourable Senator Patterson, that the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: *Time for Transformative Change: A Review of the 2004 Health Accord*, tabled in the Senate on March 27, 2012, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Health being identified as minister responsible for responding to the report.

**Hon. Catherine S. Callbeck:** Honourable senators, I am pleased today to rise to speak to the report *Time for Transformative Change: A Review of the 2004 Health Accord*.

First, I want to thank all members of the committee, the researchers, the clerk and all others who worked so hard on this report. I especially want to thank the committee's chair, Senator Ogilvie, and our deputy chair, Senator Eggleton, for their leadership during this study.

I would like to thank all the witnesses who took the time to share their views with us. We heard from a wide variety of people: the Health Council of Canada and the Canadian Institutes of Health Information, which are both responsible for monitoring progress in

the implementation of the 10-Year Plan; federal and provincial government officials; health-professional organizations and service providers; and academics and research organizations. We also accepted written submissions from almost 30 organizations and individuals who wanted to share their thoughts with the committee.

There are both negative and positive comments about the health care system from people across the country. In polls, Canadians consistently name health as one of their most important issues. Overall, while the committee found that some progress had been made, there is still a great deal of work to do.

Senator Ogilvie and Senator Eggleton have already spoken extensively about the committee's findings and its recommendations, so I do not plan to repeat that information. However, I wish to comment on three areas of the report.

The first is the National Pharmaceutical Strategy. Back in 2004, the First Ministers agreed to establish a National Pharmaceutical Strategy. They set up a Ministerial Task Force, which included all the health ministers and was co-chaired by the federal minister. The task force would be responsible for the development and implementation of the strategy, which involved design and cost options for catastrophic pharmaceutical coverage.

The first progress report on the National Pharmaceutical Strategy was issued in September 2006, and it listed four significant accomplishments. First, federal-provincial-territorial representatives agreed on principles to guide development of a catastrophic drug coverage plan. These principles call for a plan that is universal, equitable, transparent, evidence based, integrated, and sustainable. Second, the task force developed and calculated costs for two plan designs based on either fixed or variable percentages of family income. Third, they agreed to expand the federal Common Drug Review as a basis for a national formulary. Fourth, the task force agreed to establish a national framework for a program that would cover expensive drugs for very rare diseases.

However, after the progress report in September 2006, work on the strategy stalled. A number of jurisdictions brought in their own programs, like catastrophic drug coverage, but as the committee noted in its report, access to and coverage of pharmaceuticals differ from province to province.

That is why the committee recommended that the federal government work with the provinces and territories to develop a national pharmacare program based on the principles of universal and equitable access for all Canadians, which would include a national catastrophic drug coverage program and a national formulary.

I am pleased with this recommendation. Though many Canadians receive some help with their drug costs through a patchwork of public and private insurance plans, this patchwork leads to inequities. Each province and territory has its own programs, with its own eligibility requirements and benefits levels. Depending on a person's province of residence, the assistance available can vary greatly.

According to a survey by Statistics Canada from 2009, about one quarter of Canadians are not covered by public drug plans through their provinces or territories. All in all, about 2 per cent

of our population do not have prescription drug coverage at all. In the Maritimes and Alberta, the number of those who do not have drug coverage is between 20 to 30 per cent.

Canadians across the country are falling through the cracks. About 8 per cent of Canadians admit they did not fill a prescription in the previous 12 months because of financial costs. That should be unacceptable to us. Equal access to health care should never be based on where a person lives in Canada.

The second topic in the report that I wish to talk about today is home care. During the course of our study, the committee found that there has been some progress in improving access to services but that reporting by responsible jurisdictions was lacking. We also heard about the increased cost of drugs and supplies experienced by patients and families as a result of being treated out of hospital.

The committee made a number of recommendations on the issue of home care, including the development of indicators to measure the quality and consistency of home care, end-of-life care, and other continuing care services; the creation and implementation of an awareness campaign about the importance of planning end-of-life care; the expansion of public pharmaceutical coverage to drugs and supplies used by home care recipients; and the development and implementation of a strategy for continuing care that would integrate home, facility-based long-term, respite and palliative care services fully within health care systems.

I am pleased with those recommendations. Certainly, we are seeing a lot of disparities between jurisdictions. For example, in my own province of P.E.I., coverage for medications, supplies, equipment and oxygen remains the responsibility of the individual if they are receiving their care at home. Due to the high costs in my province, patients want to stay in the hospital in order to ensure that their medications and equipment are covered. Being at home is now far more costly for the person and their family.

So we should be doing more to ensure that people can stay at home, as research shows that patients prefer to remain in their home and that the cost of providing care is less than in an acute-care setting.

As governments struggle to bring soaring health care costs under control, we must be looking at the long-term savings that can come from helping people to stay at home, rather than taking up beds in hospitals.

The third area I would like to address is prevention, promotion and public health. The committee heard that it was important not only to address issues like chronic disease or obesity but also to address health disparities and the social determinants of health that contribute to those disparities. When the Subcommittee on Population Health, under the leadership of Senator Keon, did its study into the impact of these social determinants, we noted they can greatly affect relative health status. I am glad the committee recommended the following:

That the federal government work with provincial and territorial, and municipal governments to develop a Pan-Canadian Public Health Strategy that prioritizes healthy living, obesity, injury prevention, mental health,

and the reduction of health inequities among Canadians, with a particular focus on children, through the adoption of a population-health approach that centres on addressing the underlying social determinants of health.

Public policy should focus on and strive to narrow the health inequities between Canadians of different socio-economic backgrounds. We would all benefit from it. A healthy population requires less government spending on health care, income support and social services. It will also encourage economic growth and productivity. Being healthy allows people to be more productive, and higher productivity brings about economic growth. The benefits from preventing heart disease alone are estimated to be about \$20 billion per year by the year 2020. The rewards are not only economic; healthy citizens participate more actively and make greater contributions in their own communities.

Healthy living is also important to overall health. Right now, the obesity problem in this country just gets worse. According to Statistics Canada, nearly 13 million adult Canadians are considered overweight or obese. For children, 26 per cent are overweight or obese. Childhood obesity in Canada has tripled over the past 30 years, but a focus on healthy living could change that.

• (1540)

For example, the Public Health Agency of Canada notes that people who are physically active live longer, healthier lives. Active people are more productive and more likely to avoid illness and injury. According to a 2005 study by the Public Health Agency, the economic burden of physical inactivity is more than \$5 billion, both in direct health care expenditures and in indirect costs such as loss of productivity and premature death. The cost of physical inactivity to the health care system alone was estimated to be almost \$2 billion per year.

Honourable senators, there is much to be done to transform the health care system. The committee believes that the implementation of the recommendations in our report would go a long way to making that happen. I hope the federal government and the provincial and territorial partners take these recommendations and use them as a base for further collaboration and innovation. I urge the quick adoption of this report so that the government can begin its work.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is there further debate or questions? Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to and report adopted.)



## CHARTER OF RIGHTS AND FREEDOMS

## INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

**Hon. Jane Cordy:** Honourable senators, I did speak to Senator Andreychuk, and I know that the inquiry is adjourned in her name, so I ask that when speakers today finish speaking it be adjourned again in the name of Senator Andreychuk.

Honourable senators, as we all know, April 17 marked the thirtieth anniversary of the signing of the Canadian Charter of Rights and Freedoms. The thirty years have gone by quickly, and I am sure many can remember clearly the signing of the document by Prime Minister Trudeau and Her Majesty Queen Elizabeth II on Parliament Hill.

Unfortunately, the Harper government refused to mark this milestone in a significant way, so I am thankful to Senator Cowan for initiating this inquiry to provide the opportunity for senators to recognize the anniversary of the signing of this important document.

The Charter helped entrench Canadian shared values, and it reflects our beliefs that Canadians have a fundamental right to live free from discrimination based on race, religion, gender or disabilities. Canadian are presumed innocent until proven guilty in a court of law. They have freedom of peaceful assembly, freedom of the press, freedom of thought, belief, opinion and expression.

I feel a great sense of pride when I travel around the world as a representative of Canada when attending NATO meetings. Canada garners much respect and is held in high esteem around the globe. I am always deeply honoured to represent our country. It is this same sense of pride all Canadians should feel and indeed do feel with respect to the Charter of Rights and Freedoms, a document that is admired the world over.

This admiration is evident as many countries have looked to Canada's Constitution and Charter for guidance when it comes to the drafting of their own constitutions. A forthcoming study by two law professors in the United States analyzed the content of 729 constitutions drafted between 1946 and 2006 and found that the U.S. Constitution no longer serves as the main source of inspiration for constitution-making around the world. Rather, it is Canada's Charter of Rights and Freedoms that now leads the way in providing that inspiration.

The Canadian Charter most appropriately addresses the values and concerns shared by most common-law nations today in a way the American Constitution does not. It is worth noting that the American Constitution is the oldest national constitution in force and, as such, is not as attractive a blueprint to address today's values and modern problems. An example of that can be found in the ways the two documents address equality, a value that has

become a fundamental right underpinning multicultural, multiracial and multi-religious nations of today. The U.S. Constitution does not protect rights of freedom from discrimination based on race or sex, whereas those rights are distinctly protected in Canada's Charter.

The protection of these equality rights was also a major reason officials in South Africa looked to Canada's Charter when drafting their laws regarding the rights of their citizens in the 1990s.

The Charter has also been an influence in Israel's basic laws on human rights, as well as the drafting of the bill of rights in Hong Kong, South Africa and New Zealand.

It is encouraging to discover that Canadian values are shared not just by us but are values that many the world over wish to enshrine in law. We should be proud to celebrate the fact that we are a beacon of light for the peoples of other nations wanting to develop and entrench in their own societies the rights and freedoms that provide for a free and just society.

Bob Rae spoke in favour of the Charter in the other place 30 years ago, and he voted for the patriation of the Constitution 30 years ago. On the thirtieth anniversary on April 17 of this year, Mr. Rae stated:

The Charter enshrines our most cherished Canadian values. It reflects our belief that Canadians have a fundamental right to live free from discrimination, to assemble peacefully and express our opinions, to vote in elections unimpeded, to be presumed innocent until proven guilty, and fundamentally, that our individual rights take precedence over the rights of government.

Honourable senators, the anniversary of the Canadian Charter of Rights and Freedoms should be celebrated by all Canadians, regardless of what political party they may support. It makes Canadians who we are. It is our Charter, a Charter for all Canadians, helping to shape our collective identity. It should not be ignored.

Thank you, honourable senators.

**Hon. Vivienne Poy:** Honourable senators, I rise today to take part in this inquiry on the thirtieth anniversary of the Canadian Charter of Rights and Freedoms. As an immigrant to Canada and a visible minority, I consider the Charter to be one of the unique determining factors that defines me as a Canadian. The core values as expressed through the Charter bind me to other Canadians in a shared sense of citizenship.

I am aware of the political scenario that existed when the Charter was brought into being, initially without the support of the Prime Minister of Britain, Margaret Thatcher, as well as of the British High Commissioner to Canada, John Ford, because they believed that the House of Commons should be supreme in the interpretation of the rights of its citizens. There was also a lack of the desired backing from all the provinces.

I do recognize that the Charter is not perfect. However, time has proven that our Canadian model works well in our multicultural society, and whether one likes the term "multiculturalism" or not, diversity is a fact of life in Canada.

After the Second World War, due to our declining birth rate and our aging population, the Canadian government had to turn to immigration for population growth and economic prosperity. The Charter of Rights and Freedoms of 1982 was timely because the 1980s were the years when the immigration of visible minorities increased dramatically. Since then, the Canadian population has become increasingly diverse and, while our pluralistic groups cultivate common ground in Canadian society, the Charter became the instrument with which to interpret and articulate our national values while simultaneously preserving and enhancing the multicultural heritage of Canadians.

• (1550)

The Charter is not just a legal document. It is expressed in our thinking and in our way of life. It is expressed in our language rights and it has advanced the equality of women. It can be seen in the multicultural curriculum in our schools, in our celebration of many religions, and in our recognition of Black History Month, as well as Asian Heritage Month, which happens to begin today.

It is reflected in our horror at the bullying of gays and others who may be perceived as different from ourselves.

The Charter reflects Canada's struggle with the challenges of a modern, multicultural, multilingual society, and it confirms that we are a participant in a global world. It is a document that entails compromise and dialogue. It protects religious freedoms and multiculturalism and simultaneously safeguards gender rights and the rights of gays and lesbians. It recognizes collective rights while acknowledging the paramount importance of individual rights. It has a unique structure for balancing what may appear to be opposing interests. It is a distinctly Canadian document in that, just as Canada was founded on the basis of dialogue and engagement, the Charter balances the rights and freedoms of many groups that make up our society. As a result of Charter jurisprudence, Canada has become a moral leader in the world.

Today, I want to focus on the Charter's effects on the multiculturalism policy adopted in 1971 and on our broader approach to our very diverse population.

It was the Charter that gave way to the policy, through article 2, that guarantees freedom of conscience and religion, thought, belief and expression, peaceful assembly and association. Article 15 extends the effects of article 2 by promising equality before the law to enjoy these freedoms without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disabilities. Article 27 is an explicit statement of Canada's commitment to "the preservation and enhancement of the multicultural heritage of Canadians."

In 1985, just three years after the passage of the Charter, one of the most pivotal cases in terms of rights of immigrants to Canada occurred in the case of *Singh v. Minister of Employment and Immigration*, where refugees were found to have the same rights as Canadian citizens. The Supreme Court of Canada ruled that the Immigration Act was unconstitutional because it effectively denied refugee claimants the right to a fair hearing and, as a result, they could be deprived of the security of the person in a

manner that is not in keeping with principles of fundamental justice, a violation of section 7 of the Charter which states that "Everyone has the right to life, liberty, and security of the person."

The court also ruled that, according to section 2 of the Canadian Bill of Rights, persons had a right to a full and fair hearing of their case. Since then, April 4 has been recognized as Refugee Rights Day. According to the Immigration and Refugee Board, "This decision significantly changed Canada's refugee determination process and helped lead to the creation of the IRB as we know it."

Shortly after this, Baltej Singh Dhillon, a Sikh, applied to the RCMP for acceptance into the force. He met the entrance requirements, but was initially told that he would have to give up wearing the turban in favour of the force's traditional hat. He was allowed to train with no guarantee that he could wear the turban after graduation. The RCMP Commissioner, Norman Inkster, sided with Dhillon in April 1989 and proposed a change to total RCMP rules. A petition to retain the traditional dress went to Parliament and, in March 1990, Solicitor General Pierre Cadieux, responsible for the RCMP, gave his ruling allowing the wearing of the turban in the RCMP. The decision marked another victory for Canada's Charter of Rights and Freedoms. The fact that Dhillon could wear his turban as an RCMP officer established a precedent that opened the door for all Sikh Canadians to enter the RCMP.

Over 10 years later, Gurbaj Singh Multani's ceremonial kirpan fell out of its cloth holder in school. The mother of another student saw it and complained, and the principal sent Gurbaj home. Over the course of many years and many court decisions, the issue of whether Gurbaj could carry his kirpan, as required by the Sikh religion, found its way to the Supreme Court of Canada where, in an eight-to-zero decision on March 2, 2006, the court ruled that a total ban on the kirpan in schools violates the Charter of Rights and Freedoms' section on religious freedom.

Most recently, the Supreme Court of Canada is considering whether a sexual assault complainant may testify in court while wearing a niqab for religious reasons. One of the defendants in a sexual assault case claimed that his right to full answer and defence was infringed by the complainant, N.S., testifying while wearing her niqab. He argued that, in order to effectively cross-examine the complainant, it is essential to be able to observe her demeanor. No doubt, this case will have a far-reaching impact on many Canadians.

The Charter does not prioritize the courts over Parliament, even though it may challenge legislation that may have been drafted without consideration of the broader implications for all groups.

Currently, there is legislation in the other place that impacts refugee rights and some groups have indicated that this may be subjected to Charter challenges. The Charter recognizes that the best outcome occurs when there is dialogue and engagement between Parliament and the courts.

The Charter is a uniquely Canadian achievement, and it is recognized as a great accomplishment worldwide. In addition to our public health care, Canada's reputation in the world is largely based on the Charter of Rights and Freedoms and the artful



way it weighs competing interests. While recognizing that there are norms that all citizens must follow and that these norms are continuously changing, the Charter is the means by which the courts can respond to reflect society's attitudes. It engages both the minority and the majority in negotiation and dialogue.

Over the past 30 years, Canada has become a freer and fairer country. Honourable senators, it was not the norm to have women in policing, in law, in medicine or in the Armed Forces 30 years ago, but all of this has changed and so have society's attitudes.

The same can be said about our support for gay marriage. Only a few years after same-sex marriage was legalized in Canada, with much debate, the rights of gays to marry have become a non-issue. This shows the importance of the positive influence of the Charter on Canadian society.

The same is true for the many other groups who have been impacted by the Charter. It would be interesting for honourable senators to know that the legal protection for minority rights under the Charter is of utmost importance among well-educated immigrants I have spoken to. It was the deciding factor for them to come to Canada instead of the United States. These are the immigrants Canada needs.

• (1600)

I am very proud that the Charter of Rights and Freedoms has shaped Canada as a progressive country among nations over the last three decades. The Americans call Canada "the new constitutional superpower," and the Canadian model has been studied, emulated and adopted abroad. On the thirtieth anniversary of the Charter, I celebrate with all Canadians the document that unites us as citizens of this great country.

(On motion of Senator Poy, for Senator Andreychuk, debate adjourned.)

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of two distinguished members of the Legislative Assembly of New Brunswick: the Honourable Madeleine Dubé, Minister of Health; and Mr. Jack Carr, MLA, New Maryland—Sunbury West.

Welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

[Translation]

## POVERTY IN NEW BRUNSWICK

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Robichaud, P.C., calling the attention of the Senate to the 2009 poverty reduction strategy of New Brunswick.

**Hon. Rose-Marie Losier-Cool:** Honourable senators, today I wish to follow up on the inquiry made by my colleague from New Brunswick, Senator Robichaud, on February 7, 2012, regarding poverty in our province and the provincial government's strategy to reduce or eliminate it.

Today I wish to talk to you about one particular aspect of poverty, that is, poverty among seniors, and even more specifically, among older women. As a woman myself, I know I will one day be a senior, and perhaps older, but I will never be old.

In February, the National Pensioners and Senior Citizens Federation sent the government a submission summarizing the factors that contribute to poverty among seniors. Some of them are a lack of pension, a low level of education, being a non-integrated immigrant, illness or the onset of chronic illness, wage inequities and disability.

The federation also confirmed that single women, single mothers and older women carry a higher burden of poverty. According to the federation, half of seniors' income depends on transfer payments and these payments are four times greater for seniors than they are for other recipients in our society.

In its recommendations, the federation suggests increasing Old Age Security and Guaranteed Income Supplement payments. The federation also recommends that the federal government increase its contribution to the Canada Pension Plan so the plan can pay out twice as much in payments to beneficiaries. Seniors would then have enough income to rise above the poverty line. According to Statistics Canada, this threshold is calculated based on three variables: the pre-tax low income cut-off, the post-tax low income measure and the market basket measure.

In New Brunswick, for a family of two adults and two children, this combined poverty line corresponds roughly to an annual income of \$24,300 in rural areas, \$23,900 in the capital, Fredericton, and \$22,900 in Moncton.

According to the 2006 census, 13.8 per cent of people in New Brunswick live below the poverty line. That represents a bit more than 100,000 people. Out of the nearly 119,000 people over 65 living in my province, more than 11 per cent — or 11,700 people — live below the poverty line. The current percentage of seniors in the province is 15.8 per cent, which is higher than the national average of 14 per cent. In 25 years, it is predicted that a quarter of the population of my province will be over 65.

The statistics from the 2006 census also show us that more than 45 per cent of the 29,000 single mothers in my province live in poverty. Others who are potentially living in poverty: half of the 93,000 single people who earn a maximum annual salary of \$20,000. When you consider that the average life expectancy of women is 81, compared to 74 for men, you realize that poverty among seniors is a women's issue.

These annual incomes are inadequate, honourable senators. On average in my province, it costs \$6,100 a year for food and \$9,100 a year for housing. Add those sums together and you have minimum annual expenses of \$15,200. For clothing, fuel, licensing fees and some recreational activities, there remains only \$4,800 a

year on average for a single person and less than \$9,000 for a single mother. Now think about single seniors or older single mothers and you will see that the situation for our seniors, our female seniors, is far from rosy.

Only 122,000 New Brunswickers contribute to a registered pension plan, which means that most of the seniors in my province are left to the mercy of their savings and government contributions, whether they be in the form of provincial social assistance or the federal Old Age Security and Guaranteed Income Supplement programs. This is a difficult situation, honourable senators, and it will only become more difficult now that the current federal government has decided to increase the age of eligibility for Old Age Security and the Guaranteed Income Supplement to 67 by 2025. This measure in the most recent federal budget is going to cause a lot of harm to my province.

What can be done to help seniors escape from poverty? The Association acadienne et francophone des aînées et aînés du Nouveau Brunswick has made a number of recommendations.

During the most recent provincial election campaign in New Brunswick, in the fall of 2010, the AAFANB raised the following issues that contribute to poverty among seniors in New Brunswick:

- Property taxes that increase each year and force some seniors to abandon their homes;
- The high cost of ambulance services, which compromise seniors' health;
- The fact that women have less access to workplace retirement plans and receive fewer benefits than men;
- The need to increase the contributions of workers and employers from 5.33 per cent to 7 per cent; and
- The need to increase the basic welfare rate to help the most vulnerable members of society.

The AAFANB recommended that the provincial government:

- Impose higher taxes on people who earn over \$150,000 a year;
- Raise corporate tax rates to 13 per cent;
- Invest more in home care;
- Invest in volunteerism by people aged 50 and over;
- Achieve pay equity for child care workers;
- Initiate a generic drug policy;
- Increase provincial income by creating highway tolls for motorists entering the province; and
- Keep the HST at its current level so as not to penalize the poor of the province.

• (1610)

Unfortunately, in its budget tabled March 27, the Government of New Brunswick did not respond to any of these recommendations, except to allocate the small amount of \$6.4 million to address pay equity; fortunately, the government did not increase the HST.

I know that my province, like others in Canada, is facing financial difficulties. However, I find it regrettable that seniors continue to be ignored when planning the future of New Brunswick.

Premier David Alward recently established a panel on seniors, which will be submitting its report to the government this summer. I hope that this expert panel will recommend useful solutions and that these solutions will be implemented as quickly as possible.

(On motion of Senator Losier-Cool, for Senator Tardif, debate adjourned.)

[English]

## EUTHANASIA AND ASSISTED SUICIDE

### DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Champagne, P.C., calling the attention of the Senate to euthanasia and assisted suicide.

**Hon. Terry Stratton:** Honourable senators, I would like to speak briefly today to Senator Champagne's inquiry on euthanasia and assisted suicide.

I would first like to pay tribute to Senator Champagne for her courage in what she went through a couple of years ago. It was an incredible story of the spark of life that resides in us all as she fought against all odds, with the help of a brilliant young doctor, to survive an otherwise deadly disease. My hat is off to her for that courage and her struggle and desire for life. I commend her for that incredible journey.

I also want to commend her today for another battle that she is fighting of a personal nature in her family. I know that it is indeed tough.

There are others in this room as well who are facing difficult times and have survived severe battles with cancer and other things. We have to take our hats off to them for those struggles and admire them for their courage. Senator Fred Dickson passed away after a four-year battle with cancer, but he turned up, whenever he was able to, with a smile and quiet dedication, and with quiet courage in the battle that he ultimately lost.

Others in this room are looking after people who require care as a result of diseases such as cancer, heart disease, dementia and others. These individuals show dedication beyond what I would call the norm because of their love and caring for people. We have to take our hats off to them for that. They do it not only in the short term but struggle with these people in their final days. It is amazing that they have the courage to continue because it is not a walk in the park.



My hat is off to all people and in particular senators in this room who are dedicating their lives to looking after others.

I had intended to speak about euthanasia, but I feel that is inappropriate because this is Senator Champagne's inquiry. It is an inquiry into life, the spark and vitality in all of us, and the drive to protect life and help those in need. That is how I interpret her dedication. I would like to leave it at that rather than going on with what I really want to say.

I will put a motion on the Order Paper in the next couple of weeks on the end-of-life issue that we all ultimately have to face. I think it is appropriate that we talk about that at this time. Who better to do that than this chamber?

**The Hon. the Speaker:** If there are no other senators wishing to speak to this inquiry, the inquiry is considered debated.

(Debate concluded.)

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### MOTION TO AUTHORIZE COMMITTEE TO STUDY THE POWERS AND RESPONSIBILITIES OF THE OFFICERS OF PARLIAMENT AND THEIR REPORTING RELATIONSHIPS TO THE TWO HOUSES—DEBATE ADJOURNED

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government),** pursuant to notice of March 27, 2012, moved:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report on the powers and responsibilities of the officers of parliament, and their reporting relationships to the two houses; and

That the committee present its final report no later than March 31, 2013.

He said: I would like to bring the attention of honourable senators to a letter dated February 16 of last year entitled "The Accountability of Agents of Parliament" signed by the seven officers of Parliament: the Auditor General, the Chief Electoral Officer, the Commissioner of Official Languages, the Information Commissioner, the Privacy Commissioner, the Public Sector Integrity Commissioner and the Commissioner of Lobbying.

With leave, I would like to table copies of the letter in both official languages.

**The Hon. the Speaker:** Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** So ordered.

[Translation]

**Senator Comeau:** The letter, honourable senators, was addressed to the Speaker of the House of Commons; the Chair of the Advisory Panel on the Funding and Oversight of Officers of Parliament; the Standing Committee on Public Accounts; the Standing Committee on Procedure and House Affairs of the House of Commons; the Standing Committee on Official Languages; the

Standing Committee on Access to Information, Privacy and Ethics; and the Standing Committee on Government Operations and Estimates. Copies were sent to the clerk of each of these committees.

Copies were also sent to the Clerk of the Privy Council and the Treasury Board Secretariat. The Speaker of the Senate was also copied. However, as you know, he does not chair a committee and, therefore, he cannot follow up the letter and no instructions were given regarding this letter.

I believe that the exclusion of senators from the list of recipients raises a number of serious questions about our duties and responsibilities as members of Canada's Parliament. Although the senders call themselves agents of Parliament, the fact that they excluded the Senate suggests that these agents do not believe senators have a role to play in this issue.

[English]

Exclusion of senators seems to indicate that we are not part of Parliament.

[Translation]

Unlike the Commons, no Senate committee chair or clerk received a copy of the letter. Given that the Senate is one of the two Houses of Parliament and that the senders call themselves agents of Parliament, why did they exclude the chairs of Senate committees? Did the agents of Parliament simply forget the Senate?

• (1620)

Is it possible that they consider the Senate to be unimportant and undeserving of their attention? Do they consider themselves agents of the House of Commons, not of Parliament?

[English]

Incidentally, I learned of this letter by way of an article that appeared in *The Hill Times*. I recently read in the *Ottawa Citizen* dated December 23, 2011, that the officers of Parliament wrote a follow-up letter in September. As far as I know, the Senate was again excluded.

The value of our institution may well be questioned by the media and the official opposition in the other place, but it is my view that the officers of Parliament have no business defining our roles and responsibilities. Otherwise, we would be remiss in our duties toward this institution.

Another concern in the letter is their self-designation as agents of Parliament." The letter claims that "Agents of Parliament" is the term used by government because the term "Officers of Parliament" is confusing.

Apart from the legal issues raised by the agent-principal relationship, I would suggest that the officers have added to the confusion even more by using the term *agent* in French, rather than the more precise term *mandataire*.

I did find, when I was reviewing some of these old documents, where an agent of Parliament — the Auditor General — referred to that position as a *mandataire*. They used the words interchangeably. I am quoting from a document where the Auditor General said:

[Translation]

As Officers, or Agents, of Parliament, we report directly to Parliament on matters covered by our mandates . . .

[English]

Be that as it may, it seems interchangeable between *agent* and *mandataire*.

It would be important to confirm if they are truly agents of parliamentarians in the legal sense of the word. If not, what does the designation “Agent of Parliament” mean? Where did this assignment of agency originate? When and who in government has assigned and authorized this designation? Was Parliament consulted? Does this agent designation assume that we have delegated our responsibilities to agents and that they are speaking and acting on our behalf as our agents? What are the legal, political and constitutional implications of this agency assignment or designation?

In fact, can parliamentarians legally and constitutionally delegate authority, responsibility and accountability to agents? Exactly what are we delegating? What is the extent or the limits of the delegated authority to the agents? Should we not at least take the cautious step of getting a legal opinion on the implications of this agent-principal assignment? If we do not object, is there an implicit agreement that we accept and thereby entrench the agent-principal contract? Have Commons parliamentarians authorized this agent designation in a formal way?

Given that the Parliament consists of the Commons, the Senate and the Governor General, are the officers of Parliament therefore also agents of the Governor General? Can they be agents of the head of state? If not, are they truly officers or agents of Parliament?

I started checking in various dictionaries what the definition of “agent” is, and I will go through a few of them here. The references are quite similar. Basically it says that the principal assigns powers and responsibilities.

Merriam-Webster describes an agent thus:

One who is authorized to act for or in the place of another.

Jowitt says:

In regards to agency. An act done by one agent within the scope of his authority binds the principal in the same manner as if the principal himself had done it. A universal agent is one appointed to act for the principal in all matters.

Another definition states:

Those who do an act and those who consent to it being done are visited with the same penalty.

[ Senator Comeau ]

In other words, if an agent does something on our behalf we are responsible; we have given that assignment.

Interestingly, Jowitt also says:

An agent who represents himself to have an authority when in fact he has none is liable for a breach of implied warranty of authority.

The agents of Parliament are calling themselves *our* agents when they may not have the authority to pass that on. However, if we do not act on it, are we in fact implicitly saying that they do have it?

Wikipedia says an agent in commercial law is:

. . . a person who is authorized to act on behalf of another (called the principal) to create a legal relationship with a third party.

I presume we are not talking about commercial law here, but it is still the same.

I would like to refer to testimony from the Senate Committee of the Whole of December 12, 2011, which we held regarding the nomination of Mario Dion for Public Sector Integrity Commissioner. I will quote the comments as they appear in Hansard.

Senator Comeau asked a question:

You are saying that we have given you, through the act, part of our constitutional responsibility to act as our agent, rather than to act as an officer?

The response from Mr. Dion:

If my appointment is approved.

He was basically saying, “Yes, if you approve my appointment, I will be acting as your agent.”

Senator Comeau said:

You are saying that you will become an agent. I think you are equating the word “agent” with “mandataire,” “mandated.”

Mr. Dion’s response was:

Yes, to act on someone’s behalf.

There is little doubt there that he is talking about *our* behalf. There seems to be no ambiguity in his mind whatsoever that he is acting and speaking on our behalf as our agent.

[Translation]

We should all exercise great caution in assigning agency to the officers of Parliament. From time to time, some of us might disagree with the government policies of certain officers of Parliament, and we reserve the right to express that disagreement. But if the officer is our agent, can we disagree with him or her? Moreover, do we really want to hand over the little bit of power we hold as members of Canada’s Parliament to others?



[English]

Other concerns are raised in the letter, and you will have a chance to read it. It refers to “guardians of Canadian values,” on page 3. It is in one of the paragraphs there. They say in that paragraph that officers of Parliament describe themselves as “guardians of values that transcend the political objectives and partisan debates of the day.”

I may have misinterpreted the meaning, but the statement leaves me very uncomfortable in that we would have them as the guardians of values that transcend the political objectives in partisan debates of the day. What does that mean? Are officers of Parliament in fact mandated to transcend or be above parliamentarians? Are they truly mandated to guard or protect Canadians from the political and partisan debates of parliamentarians? We should seek clarification on what this means.

On page 3, point 3, the section on departmental audit committees seems to suggest that parliamentary officers requested an exemption from Treasury Board policy and are therefore allowed to appoint their own “independent” departmental audit committee members.

I ask the question: Is this appropriate? How can independent departmental audit committee members be independent if they are appointed by the officer of Parliament that they are mandated to audit? How can the audit committee members provide objective, independent advice if their position is indebted to the very officer of Parliament who makes their appointment?

At page 4, point four, agents are auditing one another. Officers audit one another. Does this not create a weakness because one officer may not wish to be too harsh on the officer who may be auditing the first officer in the next few weeks?

• (1630)

The Senate was excluded from the discussion, but I wonder if consideration was given to appointing independent auditors who do not audit one another.

On page 5, in the second paragraph, point 5 is the formalization of the oversight role of the parliamentary advisory panel on funding and oversight. It would be important for us to review the 2005 framework agreement on which we were again not consulted or invited.

What is the composition of this panel, which has been operational since 2005 and chaired by the Speaker of the House of Commons? This is a House of Commons panel. Why was consideration not given to forming a joint committee, similar to the one on the Library of Parliament and others?

Who are the panel members? Who appoints the panel members? It is not us.

Does the committee operate in public? If not, why is it not transparent and open?

Turning to pages 5, 6 and 7, it refers to the Corbett report. Honourable senators will be reading this in the letter. We should get copies and review the terms of reference and the report.

Who commissioned the study? Was it the government, the Commons or the Senate? Was the Senate involved in any way? Was the Senate copied? What was Corbett’s mandate? Is the Senate mentioned at all in the report? I have not seen the report, but it is supposedly out there as handed over to the House of Commons.

On page 6, under “The Agents of Parliament support the formalization of the Advisory Panel in the Standing Orders of the House of Commons,” again, the Senate is excluded. Is it appropriate for the officers of Parliament to exclude and ignore the Senate from this public policy decision? Would it not be reasonable for the Senate to at least be informed, if not consulted on this decision? Is it acceptable for the Senate to be ignored in these public policy decisions?

I would like to propose some suggested issues to examine as we proceed with this, if the motion is adopted eventually.

We should critically examine the substance of the letter; prepare a timeline of decisions on the funding and oversight initiatives; and review and summarize the Commons’ meetings on the subject and follow-up actions as a result of the letter.

May I seek five more minutes?

**Hon. Senators:** Agreed.

**Senator Comeau:** We should review the panel deliberations and decisions. What messages are the officers trying to convey?

We should consider the merits of the criticisms of the Commons parliamentarians to whom the officers addressed the letter. In the letter they criticize the Commons. Are we also subject to this criticism? We do not know, because we were excluded. Would the same criticism apply to Senate parliamentarians if they had been sent the letter?

Is it fair for officers of Parliament to conclude that Commons committees and, possibly, Senate committees are not doing their job? Are the officers now independent of parliamentary oversight? In fact, who do the officers ultimately report to: directly to Canadians, to each other, to the media or to Parliament?

[Translation]

Who oversees the officers or agents of Parliament? Does the presentation of an annual report to Parliament meet the oversight criteria? What mechanisms are already in place to oversee the activities of officers of Parliament? Have the officers correctly determined that “the current accountability framework governing officers of Parliament is sound”?

What are their mandates? Are their mandates significantly different? What are the scope and limitations of the ombudsmen’s mandates? How far does their power to participate directly and publicly in political activities and partisan debates extend?

Are the officers or agents of Parliament free to disregard public instructions from Parliament and to lobby for new government policies? How do their mandates and powers compare with those in other parliamentary jurisdictions?

To guide us, we should invite experts such as Donald Savoie and many others who have published on this subject. We should also invite the government's representatives to answer our questions.

[English]

I have a motion for committee to study the issues raised by the letter: Given the numerous questions raised by the letter, I propose the Standing Committee on Internal Economy, Budgets and Administration be authorized to consider the contents of the letter. This is not a government issue; this is a parliamentary issue. It is a reasonable study to learn why the Senate was excluded from the letter and to seek clarification of a number of issues raised by the letter.

It is reasonable to evaluate the extent of the powers, limitations, responsibilities, authority and relationship of officers of Parliament with both Commons and Senate parliamentarians.

I appeal to our collective duty to protect and uphold the honour of our institution and for all senators to join with me in a non-partisan effort to get answers to the serious questions raised by this letter and to make it clear that we take our responsibilities seriously.

**Hon. Anne C. Cools:** Honourable senators, I note that Senator Comeau in his brilliant speech made reference to particular documents. Could he table those documents? It would be so much easier for us to get access to them if he would table them.

**Senator Comeau:** Yes. I did make reference to the letters. In fact, I did ask for permission to table them in both official languages. There was just one mention of a line from a report, but I can have that available to anyone who wants it.

[Translation]

**Hon. Serge Joyal:** Would the honourable senator accept some questions?

**Senator Comeau:** Yes, of course.

**Senator Joyal:** The text of the motion indicates that Senator Comeau would like to refer the letter he mentioned to the Standing Committee on Internal Economy, Budgets and Administration. After listening attentively, I came to the conclusion that many of the questions that Senator Comeau raised are constitutional in nature.

In fact, his argument is essentially based on the defence of the institution of the Senate, its powers and its role as defined in the Constitution. Should this question not be referred to the Standing Senate Committee on Legal and Constitutional Affairs, where most of the members have already addressed the status of the Senate, its role, its duties and its privileges during previous work that I do not need to get into?

Accordingly, that committee appears to be better equipped, not that I do not sympathize with the formidable work that the members of the Standing Committee on Internal Economy do, but in terms of substance, I believe that the Standing Senate Committee on Legal and Constitutional Affairs would be better equipped to thoroughly examine the implications of the letter the senator read.

**Senator Comeau:** The senator indicated that the Standing Senate Committee on Legal and Constitutional Affairs was very busy. That is one of the reasons why I did not consider it to examine this matter.

However, generally speaking, the Standing Committee on Internal Economy, Budgets and Administration regularly meets with a certain number of officers of Parliament and several matters could be researched by this committee, which has more time. It would certainly be interesting to look at the whole constitutional aspect of this matter.

(On motion of Senator Tardif, debate adjourned.)

(The Senate adjourned until Wednesday, May 2, 2012, at 1:30 p.m.)



## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

**THE SPEAKER**

The Honourable Noël A. Kinsella

**THE LEADER OF THE GOVERNMENT**

The Honourable Marjory LeBreton, P.C.

**THE LEADER OF THE OPPOSITION**

The Honourable James S. Cowan

---

**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Gary W. O'Brien

**LAW CLERK AND PARLIAMENTARY COUNSEL**

Mark Audcent

**USHER OF THE BLACK ROD**

Kevin MacLeod



## THE MINISTRY

(In order of precedence)

(May 1, 2012)

The Right Hon. Stephen Joseph Harper	Prime Minister
The Hon. Robert Douglas Nicholson	Minister of Justice and Attorney General of Canada
The Hon. Marjory LeBreton	Leader of the Government in the Senate
The Hon. Peter Gordon MacKay	Minister of National Defence
The Hon. Vic Toews	Minister of Public Safety
The Hon. Rona Ambrose	Minister of Public Works and Government Services
	Minister of State (Status of Women)
The Hon. Diane Finley	Minister of Human Resources and Skills Development
The Hon. Beverley J. Oda	Minister of International Cooperation
The Hon. John Baird	Minister of Foreign Affairs
The Hon. Tony Clement	President of the Treasury Board
	Minister for the Federal Economic Development Initiative for Northern Ontario
	Minister of Finance
The Hon. James Michael Flaherty	Leader of the Government in the House of Commons
The Hon. Peter Van Loan	Minister of Citizenship, Immigration and Multiculturalism
The Hon. Jason Kenney	Minister of Agriculture and Agri-Food
The Hon. Gerry Ritz	Minister for the Canadian Wheat Board
The Hon. Christian Paradis	Minister of Industry and Minister of State (Agriculture)
The Hon. James Moore	Minister of Canadian Heritage and Official Languages
The Hon. Denis Lebel	Minister of Transport, Infrastructure and Communities
	Minister of the Economic Development Agency of Canada for the Regions of Quebec
The Hon. Leona Aglukkaq	Minister of Health
	Minister of the Canadian Northern Economic Development Agency
The Hon. Keith Ashfield	Minister of Fisheries and Oceans and Minister for the Atlantic Gateway
	Minister of the Environment
The Hon. Peter Kent	Minister of Labour
The Hon. Lisa Raitt	Minister of National Revenue
The Hon. Gail Shea	Minister of Aboriginal Affairs and Northern Development
The Hon. John Duncan	Minister of Veterans Affairs
The Hon. Steven Blaney	Minister of International Trade
The Hon. Edward Fast	Minister for the Asia-Pacific Gateway
	Minister of Natural Resources
The Hon. Joe Oliver	Minister of Intergovernmental Affairs
The Hon. Peter Penashue	President of the Queen's Privy Council for Canada
	Associate Minister of National Defence
The Hon. Julian Fantino	Minister of State (Atlantic Canada Opportunities Agency) (La Francophonie)
The Hon. Bernard Valcourt	Minister of State and Chief Government Whip
The Hon. Gordon O'Connor	Minister of State (Small Business and Tourism)
The Hon. Maxime Bernier	Minister of State of Foreign Affairs (Americas and Consular Affairs)
The Hon. Diane Ablonczy	Minister of State (Western Economic Diversification)
	Minister of State (Transport)
The Hon. Lynne Yelich	Minister of State (Science and Technology)
The Hon. Steven John Fletcher	(Federal Economic Development Agency for Southern Ontario)
The Hon. Gary Goodyear	Minister of State (Finance)
	Minister of State (Democratic Reform)
The Hon. Ted Menzies	Minister of State (Seniors)
The Hon. Tim Uppal	Minister of State (Sport)
The Hon. Alice Wong	
The Hon. Bal Gosal	

## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(May 1, 2012)

Senator	Designation	Post Office Address
The Honourable		
Anne C. Cools	Toronto Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Gerald J. Comeau	Nova Scotia	Saulnierville, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	South Shore	Halifax, N.S.
Noël A. Kinsella, <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton, N.B.
Janis G. Johnson	Manitoba	Gimli, Man.
A. Raynell Andreychuk	Saskatchewan	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton, P.C.	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Rose-Marie Losier-Cool	Tracadie	Tracadie-Sheila, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
Marie-P. Charette-Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Wilfred P. Moore	Stanhope St./South Shore	Chester, N.S.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Francis William Mahovlich	Toronto	Toronto, Ont.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Vivienne Poy	Toronto	Toronto, Ont.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
David P., P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy E. Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire, Que.
Mac Harb	Ontario	Ottawa, Ont.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.
Claudette Tardif	Alberta	Edmonton, Alta.
Grant Mitchell	Alberta	Edmonton, Alta.



Senator	Designation	Post Office Address
Elaine McCoy	Alberta	Calgary, Alta.
Robert W. Peterson	Saskatchewan	Regina, Sask.
Lillian Eva Dyck	Saskatchewan	Saskatoon, Sask.
Art Eggleton, P.C.	Ontario	Toronto, Ont.
Nancy Ruth	Cluny	Toronto, Ont.
Roméo Antonius Dallaire	Gulf	Sainte-Foy, Que.
James S. Cowan	Nova Scotia	Halifax, N.S.
Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe, Que.
Hugh Segal	Kingston-Frontenac-Leeds	Kingston, Ont.
Larry W. Campbell	British Columbia	Vancouver, B.C.
Rod A. A. Zimmer	Manitoba	Winnipeg, Man.
Dennis Dawson	Lauzon	Sainte-Foy, Que.
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations, N.B.
Bert Brown	Alberta	Kathryn, Alta.
Stephen Greene	Halifax-The Citadel	Halifax, N.S.
Michael L. MacDonald	Cape Breton	Dartmouth, N.S.
Michael Duffy	Prince Edward Island	Cavendish, P.E.I.
Percy Mockler	New Brunswick	St. Leonard, N.B.
John D. Wallace	New Brunswick	Rothsay, N.B.
Michel Rivard	The Laurentides	Quebec, Que.
Nicole Eaton	Ontario	Caledon, Ont.
Irving Gerstein	Ontario	Toronto, Ont.
Pamela Wallin	Saskatchewan	Wadena, Sask.
Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.
Yonah Martin	British Columbia	Vancouver, B.C.
Richard Neufeld	British Columbia	Fort St. John, B.C.
Daniel Lang	Yukon	Whitehorse, Yukon
Patrick Brazeau	Repentigny	Maniwaki, Que.
Leo Housakos	Wellington	Laval, Que.
Suzanne Fortin-Duplessis	Rougemont	Quebec, Que.
Donald Neil Plett	Landmark	Landmark, Man.
Michael Douglas Finley	Ontario—South Coast	Simcoe, Ont.
Linda Frum	Ontario	Toronto, Ont.
Claude Carignan	Mille Isles	Saint-Eustache, Que.
Jacques Demers	Rigaud	Hudson, Que.
Judith G. Seidman (Ripley)	De la Durantaye	Saint-Raphaël, Que.
Carolyn Stewart Olsen	New Brunswick	Sackville, N.B.
Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning, N.S.
Dennis Glen Patterson	Nunavut	Iqaluit, Nunavut
Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.
Pierre-Hugues Boisvenu	La Salle	Sherbrooke, Que.
Elizabeth (Beth) Marshall	Newfoundland and Labrador	Paradise, Nfld. & Lab.
Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.
David Braley	Ontario	Burlington, Ont.
Salma Ataullahjan	Toronto—Ontario	Toronto, Ont.
Don Meredith	Ontario	Richmond Hill, Ont.
Fabian Manning	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.
Larry W. Smith	Saurel	Hudson, Que.
Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.
Betty E. Unger	Alberta	Edmonton, Alta.
JoAnne L. Buth	Manitoba	Winnipeg, Man.
Norman E. Doyle	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Asha Seth	Ontario	Toronto, Ont.
Ghislain Maltais	Shawinigan	Quebec City, Que.
Jean-Guy Dagenais	Victoria	Blainville, Que.
Vernon White	Ontario	Ottawa, Ont.

## SENATORS OF CANADA

## ALPHABETICAL LIST

(May 1, 2012)

Senator	Designation	Post Office Address	Political Affiliation
The Honourable			
Andreychuk, A. Raynell	Saskatchewan	Regina, Sask.	Conservative
Angus, W. David	Alma	Montreal, Que.	Conservative
Ataullahjan, Salma	Toronto—Ontario	Toronto, Ont.	Conservative
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Liberal
Boisvenu, Pierre-Hugues	La Salle	Sherbrooke, Que.	Conservative
Braley, David	Ontario	Burlington, Ont.	Conservative
Brazeau, Patrick	Repentigny	Maniwaki, Que.	Conservative
Brown, Bert	Alberta	Kathryn, Alta.	Conservative
Buth, JoAnne L.	Manitoba	Winnipeg, Man.	Conservative
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Liberal
Campbell, Larry W.	British Columbia	Vancouver, B.C.	Liberal
Carignan, Claude	Mille Isles	Saint-Eustache, Que.	Conservative
Champagne, Andrée, P.C.	Grandville	Saint-Hyacinthe, Que.	Conservative
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Liberal
Charette-Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Liberal
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	Conservative
Comeau, Gerald J.	Nova Scotia	Saulnierville, N.S.	Conservative
Cools, Anne C.	Toronto Centre-York	Toronto, Ont.	Independent
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Liberal
Cowan, James S.	Nova Scotia	Halifax, N.S.	Liberal
Dagenais, Jean-Guy	Victoria	Blainville, Que.	Conservative
Dallaire, Roméo Antonius	Gulf	Sainte-Foy, Que.	Liberal
Dawson, Dennis	Lazon	Ste-Foy, Que.	Liberal
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Liberal
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Liberal
Demers, Jacques	Rigaud	Hudson, Que.	Conservative
Di Nino, Consiglio	Ontario	Downsview, Ont.	Conservative
Downe, Percy E.	Charlottetown	Charlottetown, P.E.I.	Liberal
Doyle, Norman E.	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Conservative
Duffy, Michael	Prince Edward Island	Cavendish, P.E.I.	Conservative
Dyck, Lillian Eva	Saskatchewan	Saskatoon, Sask.	Liberal
Eaton, Nicole	Ontario	Caledon, Ont.	Conservative
Eggleton, Art, P.C.	Ontario	Toronto, Ont.	Liberal
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Liberal
Finley, Michael Douglas	Ontario—South Coast	Simcoe, Ont.	Conservative
Fortin-Duplessis, Suzanne	Rougemont	Quebec, Que.	Conservative
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Liberal
Frum, Linda	Ontario	Toronto, Ont.	Conservative
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Gerstein, Irving	Ontario	Toronto, Ont.	Conservative
Greene, Stephen	Halifax - The Citadel	Halifax, N.S.	Conservative
Harb, Mac	Ontario	Ottawa, Ont.	Liberal
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Liberal
Housakos, Leo	Wellington	Laval, Que.	Conservative
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Liberal
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Liberal
Johnson, Janis G.	Manitoba	Gimli, Man.	Conservative
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Liberal
Kenny, Colin	Rideau	Ottawa, Ont.	Liberal
Kinsella, Noël A., <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton, N.B.	Conservative



Senator	Designation	Post Office Address	Political Affiliation
Lang, Daniel	Yukon	Whitehorse, Yukon	Conservative
LeBreton, Marjory, P.C.	Ontario	Manotick, Ont.	Conservative
Losier-Cool, Rose-Marie	Tracadie	Tracadie-Sheila, N.B.	Liberal
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Nations, N.B.	Liberal
MacDonald, Michael L.	Cape Breton	Dartmouth, N.S.	Conservative
Mahovlich, Francis William	Toronto	Toronto, Ont.	Liberal
Maltais, Ghislain	Shawinigan	Quebec City, Que.	Conservative
Manning, Fabian	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.	Conservative
Marshall, Elizabeth (Beth)	Newfoundland and Labrador	Paradise, Nfld. & Lab.	Conservative
Martin, Yonah	British Columbia	Vancouver, B.C.	Conservative
Massicotte, Paul J.	De Lanaudière	Mont-Saint-Hilaire, Que.	Liberal
McCoy, Elaine	Alberta	Calgary, Alta.	Progressive Conservative
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Liberal
Merchant, Pana	Saskatchewan	Regina, Sask.	Liberal
Meredith, Don	Ontario	Richmond Hill, Ont.	Conservative
Mitchell, Grant	Alberta	Edmonton, Alta.	Liberal
Mockler, Percy	New Brunswick	St. Leonard, N.B.	Conservative
Moore, Wilfred P.	Stanhope St./South Shore	Chester, N.S.	Liberal
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Liberal
Nancy Ruth	Cluny	Toronto, Ont.	Conservative
Neufeld, Richard	British Columbia	Fort St. John, B.C.	Conservative
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	Conservative
Ogilvie, Kelvin Kenneth	Annapolis Valley - Hants	Canning, N.S.	Conservative
Oliver, Donald H.	South Shore	Halifax, N.S.	Conservative
Patterson, Dennis Glen	Nunavut	Iqaluit, Nunavut	Conservative
Peterson, Robert W.	Saskatchewan	Regina, Sask.	Liberal
Plett, Donald Neil	Landmark	Landmark, Man.	Conservative
Poirier, Rose-May	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.	Conservative
Poy, Vivienne	Toronto	Toronto, Ont.	Liberal
Raine, Nancy Greene	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.	Conservative
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Liberal
Rivard, Michel	The Laurentides	Quebec, Que.	Conservative
Rivest, Jean-Claude	Stadacona	Quebec, Que.	Independent
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Liberal
Runciman, Bob	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.	Conservative
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	Conservative
Segal, Hugh	Kingston-Frontenac-Leeds	Kingston, Ont.	Conservative
Seth, Asha	Ontario	Toronto, Ont.	Conservative
Seidman (Ripley), Judith G.	De la Durantaye	Saint-Raphaël, Que.	Conservative
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Liberal
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Liberal
Smith, Larry W.	Saurel	Hudson, Que.	Conservative
Stewart Olsen, Carolyn	New Brunswick	Sackville, N.B.	Conservative
Stratton, Terrance R.	Red River	St. Norbert, Man.	Conservative
Tardif, Claudette	Alberta	Edmonton, Alta.	Liberal
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	Conservative
Unger, Betty E.	Alberta	Edmonton, Alta.	Conservative
Verner, Josée, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.	Conservative
Wallace, John D.	New Brunswick	Rothsay, N.B.	Conservative
Wallin, Pamela	Saskatchewan	Wadena, Sask.	Conservative
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Liberal
White, Vernon	Ontario	Ottawa, Ont.	Conservative
Zimmer, Rod A. A.	Manitoba	Winnipeg, Man.	Liberal

**SENATORS OF CANADA**  
**BY PROVINCE AND TERRITORY**  
(May 1, 2012)

**ONTARIO—24**

Senator	Designation	Post Office Address
The Honourable		
1 Anne C. Cools	Toronto Centre-York	Toronto
2 Colin Kenny	Rideau	Ottawa
3 Consiglio Di Nino	Ontario	Downsview
4 Marjory LeBreton, P.C.	Ontario	Manotick
5 Marie-P. Charette-Poulin	Northern Ontario	Ottawa
6 Francis William Mahovlich	Toronto	Toronto
7 Vivienne Poy	Toronto	Toronto
8 David P. Smith, P.C.	Cobourg	Toronto
9 Mac Harb	Ontario	Ottawa
10 Jim Munson	Ottawa/Rideau Canal	Ottawa
11 Art Eggleton, P.C.	Ontario	Toronto
12 Nancy Ruth	Cluny	Toronto
13 Hugh Segal	Kingston-Frontenac-Leeds	Kingston
14 Nicole Eaton	Ontario	Caledon
15 Irving Gerstein	Ontario	Toronto
16 Michael Douglas Finley	Ontario—South Coast	Simcoe
17 Linda Frum	Ontario	Toronto
18 Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville
19 David Braley	Ontario	Burlington
20 Salma Ataullahjan	Toronto—Ontario	Toronto
21 Don Meredith	Ontario	Richmond Hill
22 Asha Seth	Ontario	Toronto
23 Vernon White	Ontario	Ottawa
24		



## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
The Honourable		
1 Charlie Watt	Inkerman	Kuujuuaq
2 Pierre De Bané, P.C.	De la Vallière	Montreal
3 Jean-Claude Rivest	Stadacona	Quebec
4 W. David Angus	Alma	Montreal
5 Pierre Claude Nolin	De Salaberry	Quebec
6 Céline Hervieux-Payette, P.C.	Bedford	Montreal
7 Serge Joyal, P.C.	Kennebec	Montreal
8 Joan Thorne Fraser	De Lorimier	Montreal
9 Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire
10 Roméo Antonius Dallaire	Gulf	Sainte-Foy
11 Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe
12 Dennis Dawson	Lauson	Ste-Foy
13 Michel Rivard	The Laurentides	Quebec
14 Patrick Brazeau	Repentigny	Maniwaki
15 Leo Housakos	Wellington	Laval
16 Suzanne Fortin-Duplessis	Rougemont	Quebec
17 Claude Carignan	Mille Isles	Saint-Eustache
18 Jacques Demers	Rigaud	Hudson
19 Judith G. Seidman (Ripley)	De la Durantaye	Saint-Raphaël
20 Pierre-Hugues Boisvenu	La Salle	Sherbrooke
21 Larry W. Smith	Sauvel	Hudson
22 Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures
23 Ghislain Maltais	Shawinigan	Quebec City
24 Jean-Guy Dagenais	Victoria	Blainville

## SENATORS BY PROVINCE-MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
The Honourable		
1 Gerald J. Comeau	Nova Scotia	Saulnierville
2 Donald H. Oliver	South Shore	Halifax
3 Wilfred P. Moore	Stanhope St./South Shore	Chester
4 Jane Cordy	Nova Scotia	Dartmouth
5 Terry M. Mercer	Northend Halifax	Caribou River
6 James S. Cowan	Nova Scotia	Halifax
7 Stephen Greene	Halifax - The Citadel	Halifax
8 Michael L. MacDonald	Cape Breton	Dartmouth
9 Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning
10		

## NEW BRUNSWICK—10

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The Honourable		
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2 Rose-Marie Losier-Cool	Tracadie	Tracadie-Sheila
3 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
4 Joseph A. Day	Saint John-Kennebecasis, New Brunswick	Hampton
5 Pierrette Ringuette	New Brunswick	Edmundston
6 Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations
7 Percy Mockler	New Brunswick	St. Leonard
8 John D. Wallace	New Brunswick	Rothsay
9 Carolyn Stewart Olsen	New Brunswick	Sackville
10 Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent

## PRINCE EDWARD ISLAND—4

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The Honourable		
1 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
2 Elizabeth M. Hubley	Prince Edward Island	Kensington
3 Percy E. Downe	Charlottetown	Charlottetown
4 Michael Duffy	Prince Edward Island	Cavendish



## SENATORS BY PROVINCE-WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
The Honourable		
1 Janis G. Johnson	Manitoba	Gimli
2 Terrance R. Stratton	Red River	St. Norbert
3 Maria Chaput	Manitoba	Sainte-Anne
4 Rod A. A. Zimmer	Manitoba	Winnipeg
5 Donald Neil Plett	Landmark	Landmark
6 JoAnne L. Buth	Manitoba	Winnipeg

## BRITISH COLUMBIA—6

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2 Mobina S. B. Jaffer	British Columbia	North Vancouver
3 Larry W. Campbell	British Columbia	Vancouver
4 Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks
5 Yonah Martin	British Columbia	Vancouver
6 Richard Neufeld	British Columbia	Fort St. John

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2 David Tkachuk	Saskatchewan	Saskatoon
3 Pana Merchant	Saskatchewan	Regina
4 Robert W. Peterson	Saskatchewan	Regina
5 Lillian Eva Dyck	Saskatchewan	Saskatoon
6 Pamela Wallin	Saskatchewan	Wadena

## ALBERTA—6

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The Honourable		
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2 Claudette Tardif	Alberta	Edmonton
3 Grant Mitchell	Alberta	Edmonton
4 Elaine McCoy	Alberta	Calgary
5 Bert Brown	Alberta	Kathryn
6 Betty E. Unger	Alberta	Edmonton

## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND AND LABRADOR—6

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1 Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
2 George Furey	Newfoundland and Labrador	St. John's
3 George S. Baker, P.C.	Newfoundland and Labrador	Gander
4 Elizabeth (Beth) Marshall	Newfoundland and Labrador	Paradise
5 Fabian Manning	Newfoundland and Labrador	St. Bride's
6 Norman E. Doyle	Newfoundland and Labrador	St. John's

## NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
The Honourable		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

## NUNAVUT—1

Senator	Designation	Post Office Address
The Honourable		
1 Dennis Glen Patterson	Nunavut	Iqaluit

## YUKON—1

Senator	Designation	Post Office Address
The Honourable		
1 Daniel Lang	Yukon	Whitehorse



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SENATE



SÉNAT

CANADA

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41st PARLIAMENT

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OFFICIAL REPORT  
(HANSARD)

Wednesday, May 2, 2012

The Honourable NOËL A. KINSELLA  
Speaker

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## THE SENATE

Wednesday, May 2, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### RAILWAY SAFETY ACT CANADA TRANSPORTATION ACT

BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-4, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act, and acquainting the Senate that they had passed this bill without amendment.

[Translation]

### SENATORS' STATEMENTS

#### L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

**Hon. Andrée Champagne:** Honourable senators, some of you seemed a bit surprised to see me return to my chair this week. I returned to Canada the night of February 14. I was coming back from a meeting of the APF Bureau in Phnom Penh, Cambodia, via Seoul, South Korea. We did excellent work. I would like to give the credit to our colleague, Senator Pierre De Bané.

Despite the resentment and the systematic and stubborn obstruction of the parliamentary secretary general, Senator De Bané was able to convince the members and senators around the big table that it is important that we as parliamentarians know how the money our respective governments make available to the OIF every year is spent.

Democracy won out in the end, and the responsibility to clarify matters went to the Parliamentary Affairs Committee. When its members met in Vancouver a few weeks later, they came to a unanimous resolution that the Bureau can study thoroughly at its next meeting, which will be held in Brussels in July as part of the annual general meeting.

While new problems became part of my everyday life at the end of January, I was dealt an even bigger blow when I returned to Canada. Some of you may recall that not so long ago, my husband arrived in Ottawa by bus, metro and train, in the middle of a huge snowstorm, intent on celebrating Valentine's Day with his life partner of more than 30 years. This year, the circumstances were quite different.

Following a morning exam on February 14, we received some bad news. My Sébastien had cancer. We were told that it was curable, but serious nevertheless because it had progressed to

stage three. So I traded in my senator's hat for that of caregiver to be with him throughout his ordeal. I was also his driver. That is why I have been away so much, but together, my partner and I will continue to fight over the next few months.

I would like to thank all of my colleagues who have filled in for me at various committee meetings and have even missed important votes in the chamber. Over the past few weeks, I have done everything in my power to find a few people who can take over as helper and driver to take my partner to his daily radiation treatments and to make sure that the side effects of chemotherapy do not put him at risk if he is home alone while I am gone. Thanks to those friends, I will be here in my usual seat as often as possible.

After six weeks of chemo and radiation, we will take a six-week break before Sébastien has surgery. I know that all of you will send us good vibes and, depending on your beliefs, you will pray for the full recovery of the man who has put up with me for so many years, the man I cannot do without.

• (1340)

[English]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation for Relations with Canada (Transatlantic Relations Unit) — European Parliament: His Excellency Matthias Brinkmann, Ambassador and Head of Delegation of the European Union to Canada; Mr. Philip Bradbourn; Mrs. Elisabeth Jeggle; Mr. Wolf Klinz; Mr. Ioan Enciu; Mr. Ioannis Kasoulides; and Mr. Peter Stastny, a well-known Canadian and hockey player.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

### SPINAL CORD INJURY AWARENESS MONTH

#### CHAIRLEADER EVENT ON PARLIAMENT HILL

**Hon. Jim Munson:** Honourable senators, given the special nature of this day, I would like to seek leave from the Senate so that I can deliver this statement from my wheelchair.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Senator Munson:** Honourable senators, today is Chairleader on the Hill Day. I have been doing this with Senators Don Meredith and Bob Peterson. It has been both a good and a humbling day. This is a day organized by Spinal Cord Injury Canada, formerly known as the Canadian Paraplegic Association. This event is held

each year to build awareness about spinal cord injury and the need to improve accessibility for people in wheelchairs. There are 25 of us doing this today, except that we have to think that there are people with spinal cord injuries who are doing this every day of their lives.

In addition to the physical strength and coordination needed to maneuver a wheelchair through the streets and into the buildings where we work and live, determination is crucial as challenges are everywhere — literally at every corner.

Have you folks have seen the National Press Building lately? The building's main entry on Wellington is closed for the next two years, so one can only get into the building via Sparks Street and then going to the third floor. One then needs a battering ram to get into the National Press Building, which for some of us is perhaps not so bad. One then has to go through a corridor and get through two sets of doors. Public Works says it is wheelchair accessible, but it is not wheelchair accessible. This is just one example. I doubt anyone in a wheelchair could make it through that particular maze.

I hope Public Works is listening because I am saying that their norms are unacceptable and it is time they adapt them to the mobility needs of all Canadians.

On a lighter level, I would like to invoke the name of Rick Wardell. Everyone knows Rick. I did not cheat; I had ingenuity today. Rick is our page who is in a motorized chair. After we had our business at the Centennial Flame, I hitched a ride behind Rick. He took me back up to the Hill. I have to acknowledge Rick's wonderful work in helping me get back up on the Hill.

Of course, we all have egos. I do not have much hair. Have you ever tried to comb your hair in a washroom while you are in a wheelchair? I know I am short, but this is ridiculous!

On a serious note again, today in this country 90,000 people are affected by spinal cord injuries. The highest rate of injury is among young people, mostly men between the ages of 20 and 29. About 4,500 in this country suffer spinal cord injuries annually. By the end of the day — by the time I finish this speech, by the time we all go to bed and are comfortable, and by the time I return this wheelchair to the organizers — there will be 11 new spinal cord injuries in this country. We have to think about that.

In closing, we are fortunate to have representatives from Spinal Cord Injury Canada with us today, particularly Bobby White. There is a reception this afternoon at five o'clock on the Hill. I hope that senators can find time to meet with them and learn more about events taking place now and throughout May as part of Spinal Cord Injury Awareness Month, as well as their work and the people who count on them for support.

#### THE LATE FLORENCE E. WHYARD, C.M.

**Hon. Daniel Lang:** Honourable senators, last week Yukon said goodbye to Flo Whyard, one of our citizens who was a major force in influencing our territory's steps to responsible government. Ninety-five years young, Flo's accomplishments read like she lived three lifetimes.

During the war, she joined the Women's Royal Canadian Naval Service and served as a public relations officer. Later, she married and began her lifetime commitment to the North, moving initially to Yellowknife with her husband Jim and then to Whitehorse with their children in 1955.

Before long she was the editor of our local newspaper, *The Whitehorse Star*, and brought her opinions on how the world should unfold to her readers each week. Eventually this led her into public life in Yukon, where she served as an MLA and the Minister of Health and later became Mayor of Whitehorse.

Flo was also an author. She wrote many books, a number of them on the North, including a biography on Martha Black, Northern Canada's first female member of Parliament. Over the years she was recognized publicly in many ways, but I must note that this included the prestigious Order of Canada.

Flo believed that life should be lived, not watched, and she practised this every day. She will be missed but not forgotten.

#### ALBERTA

##### ELECTION 2012

**Hon. Elaine McCoy:** Honourable senators, I rise today to take the first opportunity I have had to remark publicly on the magnificent, the historical event in Alberta last week in which we elected not only a female premier but also a female leader of the opposition. We are very pleased to have two such able women in office in our province.

Even more significant, however, was the fact that gender was not an issue. We celebrate the fact that we are now at a point where gender is not an issue.

It was a remarkable win. It hearkened back to that day on August 30, 1971, when Peter Lougheed formed the first Progressive Conservative government in Alberta. When we celebrated that event last summer, one of his henchmen, Mr. Hyndman, said that we did it by never attacking people, which was one of our principles; we did it by listening and by taking ideas from everyone. He said, "The key to our success is we listened to the views of uncommitted voters, former PCs, disinterested Liberals, Social Credit voters and voters who wanted new faces. We listened to young people and to newcomers in the province."

Honourable senators, this is what Alison Redford did yet again, this time in 2012. She also put forward a competing vision for the future. At issue in our campaign for the future of Alberta was two visions: one that looked backwards and one that looked forward. Alison reached back to our traditions in the Progressive Conservative Party. I quote the operating guidelines that were written by Mr. Lougheed in 1966. He said:

3. We believe in a provincial government which gives strong support to the need in Canada for an effective central government, a government that recognizes the inherent dangers of eroding the federal government's powers.



He went on to talk in the same vein about the provincial government, Alberta in particular, using its resources in a way that benefits all Canadians. As he said in the operating guidelines that he wrote 45 years ago or more, we are Canadians first, Albertans second, and we are proud to be leaders in this country.

When Premier Redford acknowledged her win in a gracious way last week, she said, "We offered a different vision of the future. We offered a vision that builds bridges, in contrast to the other vision, which is to build walls." Alberta chose to build bridges and that is a vision I think that will be well worth competing for all across this country in the years to come.

### MRS. DARIA TEMNYK

#### CONGRATULATIONS ON ONE-HUNDREDTH BIRTHDAY

**Hon. Asha Seth:** Honourable senators, I want to tell you about a wonderful and inspiring person I met this weekend.

I was officially invited by the Ukrainian Catholic Women's League of Canada to represent the Prime Minister at St. Josephat's Cathedral in Toronto and award multiple recognitions to Ms. Daria Temnyk on her one-hundredth birthday. Mrs. Temnyk is a remarkable Canadian woman from the Ukraine.

• (1350)

At age 100, she has been a member of the Ukrainian Catholic Women's League of Canada since 1958. She was president of the St. Josephat's branch for 12 years and was their archivist for 25 years before that. Today, she continues to head the organization's cultural and educational committee and is an active member of the council's Toronto branch. To commemorate her incredible 100 years of life and service, I presented Daria with official greetings from the Right Honourable Stephen Harper, Prime Minister of Canada, the Right Honourable David Johnston, Governor General of Canada, and Her Majesty the Queen Elizabeth II.

A century of life has given Mrs. Daria Temnyk the opportunity to serve her country and inspire her community. From a young age, Daria has shown bravery. As a trained language teacher she defended her cultural heritage by holding secret classes when totalitarian forces in the Ukraine did not permit the teaching of her native language.

In Canada, Mrs. Temnyk became deeply involved in charitable organizations that help to promote the interest of all Canadians. It is incredible to see the community of Toronto coming together around a delicate woman. Her body may be old and frail, but she has a powerful life energy and contagious charisma. She is a wonderful example that age is just a number and that a person can enjoy a lifetime of service and commitment to his or her community.

I want to take this moment to encourage honourable senators to embrace the attitude of Daria Temnyk and look forward to a lifetime of service to the people. Let Daria's story inspire you to forget about daily physical limitations and live a life full of

energy, charisma and joy for yourself and others. Let us work hard to create a Canada where we can all be proud to be 100 years old. Thank you, honourable senators.

### WORLD PARLIAMENTARIAN CONVENTION ON TIBET

**Hon. Consiglio Di Nino:** Honourable senators, this past weekend some 150 participants attended the World Parliamentarian Convention on Tibet held in Ottawa at the Government Conference Centre. I would like to thank all my colleagues from both the Senate and the House of Commons who attended. Thank you, you did make a difference.

Approximately half of the delegates were parliamentarians, 55 of whom came from every corner of the world. This was the sixth such gathering. The main messages emanating from this conference were urging China to resume meaningful talks with His Holiness the Dalai Lama and his representatives on an honourable resolution to this long-standing tragic issue. The conference emphatically rejected China's claim that His Holiness and the Central Tibetan Administration are seeking independence, and there was general agreement that encouraging breezes continue to come from China's leaders, not yet winds of change. I should add, but hopefully genuine signs of democratic reform.

Honourable senators, the Tibetan struggle has been long and difficult. Fundamental freedoms and rights have been denied for decades, resulting in much unnecessary pain and suffering. His Holiness continues to reach out to the Chinese authorities for a just and fair resolution, and surprisingly he is quite optimistic.

One of the speakers at the conference, John Amagoalik, the father of Nunavut, eloquently described the Inuit struggle for autonomy. He urged the Chinese government to look at Nunavut as an example for them to resolve the Tibet issue. Although he described the formation of Nunavut as a work-in-progress, he told us its people speak their own language, practice their spirituality and celebrate their culture. They are building a land where the Inuit can be proud of their heritage and can build on their rich and ancient culture. This is what the Tibetans are looking for. I hope the Chinese are listening.

## ROUTINE PROCEEDINGS

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### TENTH REPORT OF COMMITTEE TABLED

**Hon. David Tkachuk:** Honourable senators, I have the honour to table, in both official languages, the tenth report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with reports on international travel.

[Translation]

## **JOBS GROWTH AND LONG-TERM PROSPERITY BILL**

### **NOTICE OF MOTION TO AUTHORIZE SELECT COMMITTEES TO STUDY SUBJECT MATTER**

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, in accordance with rule 74(1), the Standing Senate Committee on National Finance be authorized to examine the subject-matter of all of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, introduced in the House of Commons on April 26, 2012, in advance of the said bill coming before the Senate;

That the Standing Senate Committee on National Finance be authorized to sit for the purposes of its study of the subject-matter of Bill C-38 even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto; and

That, in addition, and notwithstanding any normal practice, the following committees be separately authorized to examine the subject-matter of the following elements contained in Bill C-38 in advance of it coming before the Senate:

- (a) the Standing Senate Committee on Energy, the Environment and Natural Resources: those elements contained in Part 3;
- (b) the Standing Senate Committee on Banking, Trade and Commerce: those elements contained in Divisions 2, 10, 11, 22, 28, and 36 of Part 4;
- (c) the Standing Senate Committee on National Security and Defence: those elements contained in Division 12 of Part 4;
- (d) the Standing Senate Committee on Transport and Communications: those elements contained in Division 41 of Part 4; and
- (e) the Standing Senate Committee on Social Affairs, Science and Technology: those elements contained in Division 54 of Part 4.

## **FISHERIES ACT**

### **BILL TO AMEND—FIRST READING**

**Hon. Mac Harb** presented Bill S-210, An Act to amend the Fisheries Act (commercial seal fishing).

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Harb, bill placed on the Orders of the Day for second reading two days hence.)

## **CANADIAN NATO PARLIAMENTARY ASSOCIATION**

### **JOINT VISIT OF THE SUB-COMMITTEES ON ENERGY AND ENVIRONMENTAL SECURITY AND TRANSATLANTIC ECONOMIC RELATIONS, JULY 11-14—REPORT TABLED**

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the joint visit of the Sub-Committees on Energy and Environmental Security (STCEES) and Transatlantic Economic Relations (ESCTER), held in Edmonton and Fort McMurray, Alberta, and Dawson Creek, British Columbia, Canada, from July 10 to 14, 2011.

• (1400)

[English]

### **ANNUAL SESSION, OCTOBER 7-10, 2011—REPORT TABLED**

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Fifty-seventh Annual Session, held in Bucharest, Romania, from October 7 to 10, 2011.

[Translation]

### **BUREAU MEETING, NOVEMBER 1-2, 2011—REPORT TABLED**

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Bureau Meeting held in Moscow, Russia, on November 1 and 2, 2011.

[English]

## **CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP**

### **ANNUAL MEETING AND REGIONAL POLICY FORUM OF THE EASTERN REGIONAL CONFERENCE, AUGUST 7-10, 2011—REPORT TABLED**

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Fifty-first Annual Meeting and Regional Policy Forum of the Eastern Regional Conference, held in Halifax, Nova Scotia, Canada, from August 7 to 10, 2011.



ANNUAL MEETING OF THE MIDWESTERN  
LEGISLATIVE CONFERENCE OF THE COUNCIL  
OF STATE GOVERNMENTS, JULY 17-20, 2011—  
REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Sixty-sixth Annual Meeting of the Midwestern Legislative Conference of the Council of State Governments, held in Indianapolis, Indiana, United States of America, from July 17 to 20, 2011.

[Translation]

## QUESTION PERIOD

### CANADIAN HERITAGE

#### CANADA PERIODICAL FUND

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate. Last week, I asked a question regarding the Canada Periodical Fund, Aid to Publishers.

Honourable senators, I would like to revisit that subject today. I have read the documentation on this very carefully. It is very clear that the Conservative government is showing some willingness to increase support for minority official language publications. However, it is also very clear that several French-language newspapers in minority communities will face serious challenges, particularly those in Ontario, Saskatchewan, Alberta and Manitoba.

The problem is that these four newspapers have no other choice but to deliver their publications using Canada Post. Circulation covers a vast area, with a francophone population that is spread out across the province. Other distributors, such as newspaper carriers and private businesses, are not interested in providing the distribution service because it would not be profitable for them. For instance, delivering five French-language newspapers to 100 clients does not pay much. Accordingly, the Canada Periodical Fund must include a measure or special funding formula tailored to the specific situation of minority official language newspapers that, because of a specific reality, are forced to use Canada Post for their distribution. Would it be possible to include a special funding formula for these newspapers in the Canada Periodical Fund? Could the Leader of the Government discuss this matter with the appropriate minister as soon as possible and get back to me with the answer?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. I was not aware there had been any policy change with regard to Canada Post delivering periodicals. However, as she has asked and as was the case last

week when she raised the issue of periodicals in Alberta and Manitoba, I will refer the question to the Minister of Canadian Heritage for a written response.

[Translation]

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, to follow up on the question asked by my colleague, I know that I asked the Leader of the Government this question last week. The Leader of the Government said she would get back to me with an answer. I would like to revisit the matter and ask her again to ask the heritage minister to support this request, since this is a problem facing several minority French-language newspapers.

Could the Leader of the Government ask the minister to acknowledge that the new funding formula currently being used for the Aid to Publishers component of the fund puts minority French-language newspapers at a serious disadvantage, because it does not take their specific needs into account? This program is replacing a previous program, the Publications Assistance Program.

[English]

**Senator LeBreton:** I thank the honourable senator for the question. I will pass on the direct question to the Minister of Canadian Heritage. I do believe, and I think it is fair to say, that the Minister of Canadian Heritage, James Moore, is a very committed and dedicated minister who has worked very hard to implement the Roadmap for Canada's Linguistic Duality. This has been a very successful program and it has had very positive feedback from minority language groups, not only from francophone language groups in provinces other than Quebec but also from anglophone groups in the Province of Quebec.

With regard to the honourable senator's specific question, I will be very happy to get a written response from the Minister of Heritage.

### VETERANS AFFAIRS

#### VETERANS INDEPENDENCE PROGRAM

**Hon. Catherine S. Callbeck:** Honourable senators, my question is for the Leader of the Government in the Senate. Last year, on October 4, I asked the leader a question about the inequity that exists in eligibility criteria for surviving spouses in the Veterans Independence Program. As she may recall, she took the question as notice. I have received the written answer and I thank her for that, but it does not contain the information that I was seeking.

I want to ask for clarification and I will reformulate my question. The situation is this: If a veteran and his wife both received housekeeping and grounds keeping services, then his widow can continue to have both. If a veteran and his wife did not receive either benefit, then a low-income widow can apply and receive both. However, if a veteran and his wife received only one of these services, then his widow can never apply for the second, even if she is low-income. This is where my concern lies. The result is that there are some low-income widows who are eligible and some who are not.

Does the government plan to correct this situation?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the senator for the question. She did quite correctly state that her question had been responded to, but she is seeking additional information. Therefore, I will refer the question to be more fully clarified. I will attempt to seek out the information she needs and I will refer the question to the Minister of Veterans Affairs.

**Senator Calbeck:** Honourable senators, I really appreciate that, because it is an issue that I would like to get a clear answer on.

It is a very unfair situation. My thinking is that it is a ridiculous situation that some widows can collect and others cannot. Even the Veterans Ombudsman called it very unfair. In fact, his office wrote a position paper on it in March 2010.

When I asked the leader this question last October, she said "it does seem rather strange, to say the least."

As she said, she will look into it again. I will appreciate getting a clear answer. If the government will not change its position, I would like to know the reason it will not change its existing policy.

**Senator LeBreton:** I thank the honourable senator for the question. I will refer her question to the minister for further clarification.

## FINANCE

### FINANCIAL SYSTEM

**Hon. Wilfred P. Moore:** Honourable senators, my question is directed to the Leader of the Government in the Senate. It is a follow-up to the questions asked yesterday by my colleague Senator Hervieux-Payette with regard to the \$114-billion support that the Canadian chartered banks received during the economic downturn.

• (1410)

In Budget 2006, Finance Minister Flaherty made some changes to deregulate mortgage rules in Canada, and I will quote from page 88 of that budget document.

The Government is confirming arrangements that would allow new players entering the mortgage insurance market to gain access to that facility, and is also increasing the amount of business that can be covered under the Government's authority from \$100 billion to \$200 billion in order to keep pace with the increase in housing prices and the growth in the mortgage market. These changes will result in greater choice and innovation in the market for mortgage insurance, benefiting consumers and promoting home ownership.

The result of these new players was a 40-year amortization period with no down payment, which only led to overheating of the housing market and also allowed people to get into homes they could not otherwise afford. Therefore, when everything went sour, the Canadian government was forced to buy \$69 billion in

bad mortgage debt from our banks. Why did the government, and the leader as a member of it, create this perfect financial storm for such a disaster that occurred to the Canadian banking system?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, first, with regard to the Canadian Centre for Policy Alternatives and the so-called story that Senator Hervieux-Payette mentioned yesterday, I do not often recommend reading stories in the media, but I would recommend that you read David Akin today in the *Sun* newspapers, who did a much better job than I of debunking this myth that somehow or other the government bailed out banks.

I absolutely disagree with Senator Moore's premise that the situation in Canada is as he described. The government did take measures for shorter amortization periods for mortgages and did take measures with regard to the amount of down payment required, all to deal with the issue of household debt, which, with our low interest rates, has been acknowledged by the Minister of Finance and the Governor of the Bank of Canada to be a situation that requires some attention.

Happily, figures just released within the last few weeks have indicated that this situation now is starting to level off, and Canadians are taking very seriously the concerns that the government has been expressing and the Governor of the Bank of Canada has been talking about — reducing their household debt.

**Senator Moore:** Honourable senators, that is all very interesting to hear. A party that was advocating deregulation of the banking system and merged the banks has now suddenly adopted the Liberal policy of good management and good banking. I am encouraged that they are learning.

The leader does not seem to think the article referred to by the Canadian Centre for Policy Alternatives has credibility. They talk about the secrecy. I have been following this very closely. I knew about the purchase of the mortgages, but I did not know and do not think Canadians knew about the involvement of the Federal Reserve Bank of the United States of America. I mentioned that here once before and I mentioned it in the Banking Committee.

For the record, this is an article from *Bloomberg* entitled *The Fed's Secret Liquidity Lifelines*. Perhaps that is where the Canadian Centre for Policy Alternatives got the word "secrecy" because I do not ever remember this being divulged by the government, and I have a couple of questions about it.

Just so the people in the chamber will know and the Canadian public will know, the Bank of Nova Scotia received \$9.5 billion; the Royal Bank, \$6.9 billion; Toronto Dominion, \$6.6 billion; CIBC, \$2.2 billion; and the Bank of Montreal, \$1.8 billion.

**Senator Ringuette:** How much was the bonus for the CEOs?

**Senator Moore:** That is another issue. I do not know what happened there. Those five banks received a total of \$27 billion.

I would like to know from the leader, with regard to the \$69 billion in bad mortgages that the government had to buy from the chartered banks, how much of that was a result of that free mortgage program? I would like to know what the answer is to that one.



I would like to know if the leader or her cabinet colleagues were aware of this injection of United States dollars by the Federal Reserve Banks of the United States into our Canadian chartered banks.

**Senator LeBreton:** Honourable senators, I already answered the question about the so-called secret bailout. There has been no secret bailout. With regard to financial consumers, I will put on the record what the government has done. Senator Moore may say he pays attention, but I am quite certain I have put this on the record before, but I will do so again.

Our government is providing new measures to empower financial consumers, such as a new code of conduct on mortgage prepayment information through which federally regulated financial institutions — I will quote the Leader of the Opposition and say, “Are you going to listen, Senator Moore?”

There is a new code of conduct on mortgage prepayment information through which federally regulated financial institutions will now provide significantly more information to consumers. We are issuing regulations banning the distribution of unsolicited credit card checks. We have shortened the cheque hold period to four days. As I have previously stated, we strengthened mortgage rules to protect Canadians buying a home, reducing the maximum mortgage period to 30 years, significantly reducing interest payments families make on a mortgage, and also lowering the maximum amount lenders can provide when refinancing mortgages to 85 per cent.

We introduced Bill C-28 to provide for the appointment of a financial literacy leader. We introduced credit card reforms to ensure Canadians have the information they need. Our code of conduct was welcomed by consumers and especially by small business. We continually monitor compliance, and any possible violation will be investigated. We have acted in the past to ensure we have prudent regulations for Canadians and for our banks and will act again if necessary.

**Senator Moore:** Honourable senators, I am glad to hear the recitation of all those things, most of which I think our Banking Committee recommended. All of that to say it has resulted in household debt of 152.9 per cent greater than the per capita disposable income per household, so that record is not much to brag about.

I want an answer, please, to my question. How much of the \$69-billion bailout of the banks on those mortgages was a result of that government policy with regard to the freeing up of, as I mentioned, the 40-year amortization period and so on? I would like the leader to answer whether the government knew about the U.S. Federal Reserve putting money into the chartered banks of Canada.

I should also mention, honourable senators, that the per capita debt in Canada is now higher than it was in 2008 at the start of the recession.

**Senator LeBreton:** I thank the honourable senator for the question. I will take the questions as notice. There have been no bank bailouts, despite Senator Moore’s insistence that there have been. He asked some specific questions for which I will seek a written answer.

## ENVIRONMENT

### PARKS CANADA

**Hon. Terry M. Mercer:** Honourable senators, in the latest round of cuts hitting the public service, almost 4,000 people were handed letters yesterday saying that they may lose their jobs. Parks Canada employees, to the tune of over 1,600, were the hardest hit. Parks Canada, as you know, takes care of Canada’s dearest treasures — its parks and historic sites — including one of the premier parts of the park system, the Fortress of Louisbourg in Cape Breton.

• (1420)

Over 400 people in Atlantic Canada are affected by these cuts at Parks Canada, including 10 jobs and over 100 people who will see their work hours curtailed at Fortress of Louisbourg to meet the government’s charge to balance its budget on the backs of hard-working Atlantic Canadians.

Would the Leader of the Government like to enlighten us as to how, when during the last election the Conservatives promised jobs and a better economy, they can justify this latest round of job cuts in rural communities across the country?

**Hon. Marjory LeBreton (Leader of the Government):** In case Senator Mercer did not notice, last month Statistics Canada reported, I believe, over 80,000 new jobs.

With regard to notices that were sent out to public servants, I think it is quite incorrect to refer to these as direct cuts. These people have been informed that their employment could be affected. That does not necessarily mean they will be out of a job. Some people will be given other opportunities; some will be leaving through attrition. Of course this is all part of our balanced measures to reduce the size of the deficit and get back to balanced budgets.

Parks Canada is an organization that we are all very proud of. Parks Canada provides services and facilities to Canadians and to our visitors that are second to none. Parks Canada is making changes to ensure that staff are there and will be there when most visitors come to the parks. We hope more people will visit our parks to see Canada’s natural beauty. Unfortunately, over the past number of years there has been a decline in visitors to our national parks. Our government has greatly expanded Canada’s national parks and marine protection areas. Budget 2012 takes steps again, which has been widely applauded from all sides, to create the first national urban park, in Rouge Valley, just outside of Toronto, which has been widely applauded from all sides.

**Senator Mercer:** Honourable senators, in a community like Louisbourg, which sees an almost 20 per cent unemployment rate, the Conservatives see fit to turn a blind eye to the very people they claim to care about.

I am sure that the honourable leader, when driving in from Manotick every day, will notice how many people will not be at their stations at the locks along the Rideau Canal ensuring that

Canada's capital is taken care of for the vast number of tourists who visit and inject millions of dollars into the local economy. I am sure the leader will notice the difference if she visits historic sites like the Fortress of Louisbourg and has to cut her visit short because they have to lock the doors early.

Again, I ask the leader how the government can justify cutting jobs in the very places where the Conservatives said they would foster and even create jobs.

**Senator LeBreton:** I think I already said to Senator Mercer that Parks Canada is working to make these changes to ensure absolutely that there is staff at the national parks, on the Rideau Canal, the Trent-Severn and other canal systems during periods when visitors are actually there. I live on the Rideau Canal, as honourable senators know, and I believe that visitors coming through the Rideau Canal system from Kingston to Ottawa will see no reduction in their ability to get through the canal system. Parks Canada has indicated that they will staff all of these facilities to meet the needs of the tourist season and to meet the needs at the high-use period of time.

The fact is, in most of these instances, efficiencies can be realized without actually, as Senator Mercer is suggesting, shutting the door early. There is no intention of doing that. The government, through Parks Canada, will have people staffing all of these facilities when the most visitors are visiting them.

**Senator Mercer:** Honourable senators, it may be an unintended consequence, but because the government is cutting back on the hours of the employees, probably they will have to shut down early.

I happen to know the honourable senator lives on the Rideau Canal. It is a beautiful spot and she is an awfully lucky person to live out there. Every summer for the past number of years I have had the good fortune of travelling along the Rideau Canal one week in the summer with some friends of mine between Manotick and Merrickville, going through the five or six locks that take us up to Merrickville. When we get up there we spend a weekend and we spend money at restaurants, we rent a bed and breakfast and we may even go to the liquor store — for my friends, of course.

However, the important thing, honourable senators, is that it is not just the use of the canal and not just the visit to the Fortress of Louisbourg that is important: It is the residual spending by tourists visiting the Rideau Canal or going to Merrickville or the people going to Louisbourg.

The people visiting Louisbourg by the thousands are not necessarily staying in the small community of Louisbourg. Many are staying in the city of Sydney, spending their money there, using the Sydney airport or using other means of transportation to get there, but all spending money.

In her answer, the leader talked about the government's commitment to provide this service during the tourist season. Bed and breakfasts and small motels cannot rely on only that

short tourist season for their income; that tourist season is pretty short in this country. They need to rely also on the shoulder seasons before and after the main tourist season. That is particularly important in Cape Breton, because one of the most fabulous celebrations for tourists in Eastern Canada is Celtic Colours.

Senator MacDonald, who has been running around Cape Breton announcing every \$1,000 grant that comes out of the government, has been to Celtic Colours, I am sure. However, he was not there yesterday to deliver the pink slips.

The leader should not consider just giving me an answer about the employees on the canal or about the employees at the Fortress of Louisbourg; it is the economic effect felt in all communities surrounding both of those major Canadian historic sites.

**Senator LeBreton:** I think I mentioned that Parks Canada has indicated that they will make sure that staff are in place in all of these wonderful facilities, including the Fortress of Louisbourg, which I have visited on several occasions. They will staff when the visitors are there, and it is the same with the Rideau Canal system. I am very glad that the honourable senator is on the Rideau Canal system. Merrickville and Manotick are wonderful towns.

However, there is nothing in what Senator Mercer has said or that Parks Canada is planning that would prevent him or anyone from going through the Rideau Canal system. I happen to live on a part of the canal system that is fortunate to have 22 miles of water without going through a lock. However, once one goes through the locks, which will be staffed, there is nothing to prevent one from still visiting Merrickville and going to the wonderful shops, including the one the honourable senator mentioned, which is not far from the locks, as he knows.

In Louisbourg we also have, in the summer, the ability to have part-time staff in our parks and canal system. I wish to assure honourable senators that, as Parks Canada has said, any changes they make will be made with the assurance that there will be staff there when most visitors are attending these sites.

**Hon. Jane Cordy:** Honourable senators, I think the leader said that staff will be there when the tourists are. Does that mean that in places like Louisbourg and the Citadel in Halifax the season will not be shortened, nor will the hours of operation?

**Senator LeBreton:** I thank the honourable senator for the question. From my understanding — and I will seek clarification — Parks Canada and all the facilities they are responsible for will be staffed to accommodate the periods when visitors are there. With regard to the actual hours, I will seek clarification for the honourable senator. Living on the Rideau Canal system, I know that right now they do shorten the hours for the off-peak season. They start in May and, by September, they begin to shorten the hours on the canal, because, quite frankly, people are not going through the locks. However, I will seek clarification on that particular point, honourable senators.



• (1430)

[Translation]

## VETERANS AFFAIRS

### LONG-TERM CARE PROGRAM

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is for the Leader of the Government in the Senate and may surprise my colleagues who are involved in veterans issues, because this is a new development as of today.

The charter adopted in 1943 for veterans of World War II and the Korean War included a long-term care program, which meant that the federal government would provide long-term care for these veterans — who suffered for decades from the effects of their injuries and who clearly needed more care as they got older — for the rest of their lives.

Later, in the 1950s, the Pension Act was passed during a period of peace and cold war. In this legislation, the specific needs of our veterans, namely long-term care, were not identified.

The new charter adopted in 1996 and implemented by the government of the day did not provide for long-term care for veterans of recent wars. Today, Canada has veterans who served longer than the veterans of World War II but who are still not provided with long-term care.

Why is the federal government in such a rush to close Ste. Anne's Hospital and turn it over to the provincial government when there are still 400 veterans staying there? This hospital has 446 rooms. Instead, why not offer civilians access to this hospital while continuing to manage it so that the needs of veterans are met? Why do the opposite? At the very least, this could be a temporary solution until there are only a few veterans left there.

In addition, absolutely nothing is being said about the central health care clinic for post-traumatic stress disorder, and yet this is a key component of the health care program for veterans suffering from this disorder. We do not know whether the clinic will be able to continue to operate under the upcoming agreement.

[English]

**Hon. Marjory LeBreton (Leader of the Government):** I wish to assure the honourable senator that the long-term care of our veterans receives a lot of attention from our government. The honourable senator particularly mentioned Ste. Anne's Hospital, and he asked for a lot of specific information. Because of the shortness of time, I will ensure that he will have a written response.

[Translation]

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government):** Honourable senators, I have the honour to table the answer to the oral question asked by the Honourable Senator Moore on March 14, 2012, concerning the Joint Strike Fighter program.

## NATIONAL DEFENCE

### F-35 AIRCRAFT PURCHASE

*(Response to question raised by Hon. Wilfred P. Moore on March 14, 2012)*

The Government of Canada has made it known that it intends to replace the CF-18 fighter jet fleet at the end of their useful lives with the Royal Canadian Air Force.

No contract has yet been signed for a CF-18 replacement. The commitment to purchase a Next Generation Fighter Aircraft was clearly spelled out in the *Canada First Defence Strategy*. This commitment was made following a thorough analysis of the current and perceived roles and core missions that this fighter would be responsible for.

We have committed \$9 billion to the acquisition of replacement aircraft for the CF-18. Of this amount, approximately USD\$6 billion is planned to be spent procuring the new aircraft, with the remainder covering the cost of associated weapon systems, supporting infrastructure, spare parts, initial training, contingency funds, and project operating costs. The cost of the procurement, as well as the sustainment, of the new fleet is funded through the *Canada First Defence Strategy* and the National Defence Investment Plan.

On April 3, 2012, the Government of Canada announced that it would be pursuing a seven point plan before acquiring any replacement aircraft.

- The Treasury Board of Canada will commission an independent review of acquisition and sustainment contract prices of the F-35 which will be made public;
- The Department of Public Works and Government Services Canada will establish a new Secretariat to ensure that the acquisition and sustainment contract prices of the F-35 are validated as reasonable and fair before contracting authority is sought and funds are released; a committee of Deputy Ministers will provide oversight of the Secretariat and a fairness monitor will be engaged;
- The Department of National Defence will provide regular program status updates to Parliament and regular technical briefings on the performance schedule and costs;
- The Department of National Defence will continue its longstanding work evaluating all possible options for replacement aircraft that meet the needs of the Canadian Forces in the 21st century;
- The Treasury Board will review and certify the accuracy of the acquisition and sustainment contract prices of the F-35 and ensure full compliance with contracting policies;

- Industry Canada will continue identifying opportunities for Canadian Industry to participate in the F-35 Joint Strike Fighter program supply chain and provide updates to Parliament explaining the benefits.

The Government of Canada will not sign a contract to purchase new aircraft until this additional diligence is complete and development work is sufficiently advanced.

[English]

## ORDERS OF THE DAY

### INTERPRETATION ACT

#### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Lovelace Nicholas, for the second reading of Bill S-207, An Act to amend the Interpretation Act (non-derogation of aboriginal treaty rights).

**Hon. Joan Fraser:** Honourable senators, I am pleased to rise to speak in support of Bill S-207, which has been placed before us by Senator Watt.

I have often thought that it is a very great pity that the subject matter of this bill is burdened with the name “non-derogation clauses.” That sounds about as exciting as a quadratic equation or watching paint dry. We could equally well say that this bill is about protecting human rights, or about controlling the bureaucracy, or about upholding the Constitution, because that is what this bill is actually all about. It is about protecting the human rights of Aboriginal peoples as set out in section 35 of the Constitution. Protecting those rights — that is what it is all about.

Section 35(1) of the Constitution is quite short. It says:

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Very short, very broad, and that should settle the matter, should it not? The Aboriginal rights would be protected. The Constitution says so. However, it does not necessarily work that way.

As I have suggested, that clause is very broad, and that is in many ways good because it means that all the Aboriginal rights are covered by it. However, its very lack of a list, of specificity, means that it is wide open for argument, interpretation and evasion, if people wish to evade it.

The fact is, honourable senators, that respecting minority rights, while it is an essential element of any democratic society based on the rule of law, is often a pesky and inconvenient

business for the majorities in those societies; and the smaller the minority, the greater the tendency for majorities to brush aside those minority rights as not really being relevant or important enough to pay attention to.

I suppose it was why the practice arose, very quickly after the Constitution was adopted in 1982, of inserting in various bills where it seemed to be appropriate “non-derogation clauses.” There is that awful phrase again. What it means is that a clause would be inserted to say this piece of legislation does not derogate from or does not in any way diminish the Aboriginal rights as established in section 35.

In the beginning, the wording was very simple and clear. It would say:

For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the Constitution . . .

It is clear. In other words, even if it does seem pesky and inconvenient, one still has to respect those rights. That wording, or something akin to it, was used for a few years. Then matters perhaps were a little bit complicated in 1990 when, in its landmark *Sparrow* decision, the Supreme Court of Canada said that section 35 “is a solemn commitment that must be given meaningful content.” However, it also said that, as is the case with all rights, section 35 rights are not absolute, hence not immune from regulation, as long as they meet certain justification tests such as is there a valid legislative object here?

• (1440)

That sort of window opening may be why legal drafters seemed to become emboldened. They started tinkering with the language of the clauses that were being inserted in bills to protect Aboriginal rights. Their tinkering always went in the direction of weakening the protection for Aboriginal rights under section 35 — always.

For example, they started saying that nothing in the act shall be construed so as to abrogate or derogate from the protection provided by section 35. It may not sound like much, but why say, “We are just looking at the protection?” Why not continue to affirm that we are upholding section 35? Maybe that one was arguably acceptable, but they went on and on.

The one that I found particularly offensive, not to put too fine a point on it, was the version of the non-derogation clause that said that the bill would provide for regulations and would also include limiting the extent to which the regulations may abrogate or derogate from Aboriginal treaty rights. When we have reached the point where the bureaucrats, without a word from Parliament, can pass regulations that diminish the human rights of Canadian citizens, we have gone a long way down the wrong road.

The Standing Senate Committee on Legal and Constitutional Affairs decided to do a study of this matter. We discovered, perhaps not surprisingly, that it was no accident that the legal drafters were diminishing the impact of these protective clauses for Aboriginal rights. We were told by representatives of the Department of Justice that non-derogation clauses were often added to statutes simply as a matter of compromise or expediency, because there would be pressure from parliamentarians to insert a non-derogation clause. Therefore, it would be stuck in at the last



minute in order to get a bill through, but it was not the first choice. One witness told the committee that non-derogation clauses were intended to act as nothing more than a reminder or a flag for those administering the legislation. He then said something that I found absolutely staggering. He spoke of the government's concern about the risk that courts could give "unintended substantive effect to a non-derogation clause."

Honourable senators, bear in mind that these clauses say only that section 35 of the Constitution applies to this bill. We do not have clauses in the Constitution on the theory that they will not have any substance. They are supposed to have substance. The notion that it would be possible to give a substantive effect to a clause upholding these rights and that it would be a bad thing strikes me as going against the whole purpose of the Constitution of Canada and our obligation to the Aboriginal peoples of Canada.

Some government witnesses tried to tell the committee that the weaker versions of the non-derogation clauses helped to preserve parliamentary supremacy. In my experience, that was a first and, if memory serves, also a last. Prior to that, I had not heard civil servants talking about the need to preserve parliamentary supremacy over the freedom of action of the bureaucracy or the government. However, that was one of the arguments advanced; but of course it did not hold any water at all. What Parliament does is pass ordinary statutes and no ordinary statute can change the meaning of the Constitution of Canada.

I would draw the attention of honourable senators to the fact that in the committee's study, all of the non-government witnesses — representatives from Aboriginals, legal experts, every one of them — said that we need non-derogation clauses of one sort or another and that we needed them to be stronger than those given to us by the bureaucrats. The only people who said that they were not needed were from the Department of Justice, the ones who draft the bills. The majority of the non-government witnesses said that the best way to go was to do exactly what Senator Watt's bill does. Instead of fussing around and inserting individual non-derogation clauses in any bill that comes before us where we think one might be needed, we should do just one clean thing: Insert a section in the Interpretation Act.

The Interpretation Act guides judges on how to interpret the laws of this land. One would simply have to insert a general non-derogation clause in the Interpretation Act, which is exactly what Senator Watt is proposing. He is proposing a simple insertion that would say "no enactment shall be construed so as to abrogate or derogate from the Aboriginal and treaty rights of the Aboriginal peoples of Canada that are recognized and affirmed by section 35 of the Constitution Act, 1982." I repeat, that is what the majority of the experts told us would be the best, most effective and cleanest way to go.

After considerable reflection and discussion, the Standing Senate Committee on Legal and Constitutional Affairs recommended that that be done. It was a unanimous recommendation, as honourable senators will recall from that study's report. We were all quite proud of it. Indeed, one month later in its own special report, the Canadian Human Rights Commission echoed that recommendation.

We asked the government to respond.

[Translation]

And after six months, the government responded as it was required to do. It said that that recommendation, and the recommendation that all other non-derogation clauses be repealed, was worthy of serious consideration. Oh! Oh! However, we, the government, have questions about the practical difficulties involved in repealing existing clauses. As a result, the Government of Canada will need to carefully consider the legal and practical implications, and so forth.

[English]

That careful examination, if it has occurred, has now lasted more than four years, and the problem relating to section 35 has now lasted for nearly 30 years.

I remember saying to Senator Watt some years ago that I was frustrated that some issue — I do not remember which one now, maybe this one — was taking so long to get anywhere. Senator Watt said to me, "We, my people, know how to be patient." Heaven knows they do. However, how long do they have to be patient before a very simple step is taken to ensure that their rights will always be respected everywhere?

It does not mean that their rights will override any other rights. It will still be necessary to administer the Constitution of Canada in such a way as to balance all of the rights that are guaranteed. It gives nothing extra to Aboriginals beyond what the Constitution says is their due, beyond what is so often ignored but what is their right.

• (1450)

Honourable senators, it is past time for Parliament to adopt this legislation. I strongly urge you to support it and to send it to committee. It may be that there are some amendments that would be desirable, such as a coming-into-force clause to allow a few months of adjustment period, but this bill deserves to pass at long, long last.

(On motion of Senator Patterson, debate adjourned.)

## CRIMINAL CODE

### BILL TO AMEND— DECLARATION OF PRIVATE INTEREST

**The Hon. the Speaker pro tempore:** Honourable senators, Senator Campbell has made a written declaration of private interest regarding Bill C-290, An Act to amend the Criminal Code (sports betting) and, in accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

## CHARTER OF RIGHTS AND FREEDOMS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

**Hon. Elizabeth Hubley:** Honourable senators, it is with great pleasure that I rise today to speak to Senator Cowan's inquiry calling the attention of the Senate to the thirtieth anniversary of the Canadian Charter of Rights and Freedoms. The entrenchment of the Charter in Canada's patriated Constitution was a defining moment in our country's history. It has reshaped our society and changed the way we think about ourselves as individuals and as a nation. In the 30 years since this important event, Canada has become a more equal, just and free country.

For women and girls especially, the Charter of Rights and Freedoms has had a particularly significant impact. In fact, most young women today take their equality for granted. They are successful and productive members of society, freely and eagerly pursuing education and careers, buying homes, participating in sports, volunteering in their communities and raising their daughters to do the same. Canadian women are doing great things and achieving their goals.

One such woman is Mary Spencer. Mary was born in Warton, Ontario, in December 1984. She grew up playing a variety of sports until she discovered boxing at the age of 17 and knew immediately that she had found her passion. For the last 10 years, Mary has trained hard, becoming a Canadian and international boxing sensation. She is a 9-time Canadian champion, a 3-time world champion, and 5-time Pan-American champion. She is currently ranked the number one female boxer in her weight class in the world. This summer she hopes to bring the first-ever gold medal in women's boxing home to Canada from the Olympic Games in London, England.

Honourable senators, Mary Spencer would not be the Canadian boxing champion she is today if it were not for the Charter of Rights and Freedoms. Prior to 1984, it was illegal for women to box or wrestle according to section 4.2 of the Ontario Athletics Control Act. For 61 years this discriminatory legislation barred women from the boxing ring. It was not until a special committee appointed by the Ontario Boxing Association studied the regulation in 1983 and found it to be incompatible with the equality provisions in the Charter of Rights and Freedoms that the law was repealed and women were allowed to box.

For young Canadian women like Mary Spencer, who are today following their dreams and finding success, the fact that they have equal rights with men is something they likely take to be self-evident and incontrovertible, something they rightly take for granted. However, as any woman over the age of 30 will know, this was not always the case. Before the Charter of Rights and Freedoms and the transformation in both laws and values that it inspired, women routinely faced discrimination.

The Bill of Rights, although often cited as a source of protection for women's equality, was in fact never interpreted that way. Every

court case women launched against discriminatory legislation failed. According to the Bill of Rights, women were "equal before the law," but not "under the law." This left women vulnerable to discriminatory laws that applied differently to men and women. All that mattered was that women be treated equally with other women; they did not have to be treated equally with men.

When the first draft of the new Constitution, including the Charter of Rights and Freedoms, was introduced in the fall of 1980, women were horrified to discover that the same wording found in the Bill of Rights was used again in the Charter of Rights and Freedoms, offering women only the right to equality before the law. Fortunately, many Canadian women recognized this problem and knew that the new Charter of Rights and Freedoms was too important a document to let go without a fight. In 1981 and 1982, these women joined together from across the country to demand that a sexual equality clause be included in the new Canadian Constitution.

Their strength and determination to see women achieve genuine equality with men and to be able to actually "live their rights" paid off when the government responded to their concerns by rewriting the Charter of Rights and Freedoms. Section 15 of the Charter was renamed "Equality Rights" and all Canadians were guaranteed equality before and under the law and had equal protection and benefit of the law without discrimination. Moreover, women fought for and won a final, ironclad protection of their equality with section 28, which states:

Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

Looking back, it is clear that these hard-won victories have had a tremendous impact on women's lives in this country. The Charter of Rights and Freedoms was exactly the strong guarantee of equality women needed in order to take on discriminatory legislation and win. Women have won the right to pass on their surnames to their children, to be paid equally for equal work, to access abortions, to be treated fairly in divorce and child custody disputes and, of course, to step into the ring and box.

In 30 years we have achieved much in our fight for freedom and equality, and I am confident that, with the Charter of Rights and Freedoms forever in our corner, we will achieve even more.

(On motion of Senator Hubley, for Senator Andreychuk, debate adjourned.)

(The Senate adjourned until Thursday, May 3, 2012, at 1:30 p.m.)



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SENATE



SÉNAT

CANADA

# DEBATES OF THE SENATE

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1st SESSION

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41st PARLIAMENT

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NUMBER 75

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OFFICIAL REPORT  
(HANSARD)

Thursday, May 3, 2012

The Honourable NOËL A. KINSELLA  
Speaker



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## THE SENATE

Thursday, May 3, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for Senators' Statements, I would like to draw your attention to the presence in the gallery of members of the National House of Prayer visiting from the province of Manitoba. They are guests of the Honourable Senator Plett.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear.

### SENATORS' STATEMENTS

#### THE HONOURABLE TERRY M. MERCER

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to honour a friend and colleague whom I have had the privilege of knowing for over 20 years.

I am sure that every one of us in this chamber has an opinion about him, and this is largely due to the fact that he is not a person to sit on the fence. He is a passionate, proud man who stays firm to his principles and is never shy in expressing how he feels or where he stands on any given issue.

Honourable senators, I am extremely fortunate and proud to call Senator Terry Mercer my colleague, my fellow Liberal caucus member and, most importantly, my friend.

I first came to know Senator Mercer when we both worked for Mr. Chrétien in the 1990s. This is when I first noticed not only his confidence but also his ability to express his opinion and be heard.

Shortly after meeting Senator Mercer, my son Azool and I both took on leadership positions within the Liberal Party; I as Vice-President of the Liberal Women's Commission and Azool as Vice-President of the Young Liberals. Unfortunately, this was during a time when the party was not as inclusive and diverse as it is today.

Senator Mercer very quickly noticed some of the challenges Azool and I were facing and became very supportive of us. He took it upon himself to take Azool under his wing and treated him as his son. To this day Azool and Terry have a very close bond. In fact, I often joke that Senator Mercer and I have a son together, and he often refers to my grandson as his grandson.

Although Senator Mercer has done some amazing work for the Liberal Party, his contribution to the community, his province of Nova Scotia and to Canadians at large is truly remarkable.

Throughout his career, Senator Mercer has been both an administrator and a fundraiser for a number of charitable organizations, most notably the Kidney Foundation of Canada, St. John's Ambulance, the Nova Scotia Lung Association, the YMCA and the Canadian Diabetes Association.

Terry Mercer has been a role model to many Canadians, including my son. He is a cherished asset, not only to the many organizations I have just mentioned but also to the institution of the Senate.

Honourable senators, yesterday Senator Mercer and his friends celebrated a big milestone in his life — his sixty-fifth birthday. Today I would like to celebrate Senator Mercer's vision, not only for the Liberal Party of Canada but for all Canadians.

**Hon. Senators:** Hear, hear.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling on the next honourable senator, I draw your attention to the presence in the gallery of Mr. Arni Thorsteinson and Ms. Susan Glass, who are the co-chairs of the National Arts Centre gala that will be held in Ottawa this weekend. They are guests of the Honourable Senator Johnson.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear.

### YOUTH SUICIDE

**Hon. Salma Ataullahjan:** Honourable senators, today I want to tell you about my daughter's friend John. John was just like any other kid — a fine, gentle, positive person. He described himself as an optimist. He was completing a bachelor's degree at Brock University and hoped one day to become a teacher.

Honourable senators, I am sad to say that John recently killed himself.

I can still see his face in front of me — his glasses. He was at my home so many times that I wonder — could I have reached him?

Stories like this are not unique to Canada. I have two daughters, and this is the second time that one of their friends has died by suicide.

In mid-April a Brampton high school experienced its third suicide in less than a year. Suicide is the second leading cause of death for Canadian youth aged 10 to 24. We have the third-highest rate of youth suicide in the industrialized world. Are we failing our youth?

Honourable senators, youth suicide is not simply a family issue or a community issue. This is a public health issue. I am pleased to say that our government has been diligent in this regard. We have supported the Mental Health Commission of Canada, the National Aboriginal Youth Suicide Prevention Strategy, and the Canadian Institutes of Health Research.

In February, the Senate unanimously adopted a motion to establish a national suicide prevention strategy. As well, the Standing Senate Committee on Human Rights is examining cyberbullying as an issue of child protection. Last October, Bill C-300 was put forward, requesting the government to develop a federal framework on suicide. That bill is currently undergoing study in the Standing Committee on Health in the other place. I look forward to their report.

• (1340)

Suicide can be prevented, and it starts with communication. As senators, you can generate awareness about this issue. Let kids know that it does get better and that there are resources to help them through it. The Canadian Association of Suicide Prevention is just a click away at [suicideprevention.ca](http://suicideprevention.ca), where youth can be directed to their nearest crisis centre. There is also the Kids Help Phone.

Honourable senators, our youth need to hear from us. I urge you to remember John and the 300 Canadian youth who die by suicide every year.

#### THE LATE HONOURABLE JOHN JAMES KINLEY, O.N.S.

**Hon. Jane Cordy:** Honourable senators, I rise today to share the sad news of the passing of the Honourable James Kinley. Jim was born in Lunenburg, Nova Scotia, on September 23, 1925. He was a graduate of Dalhousie University, the Nova Scotia Technical College and the Massachusetts Institute of Technology. He practised professional engineering for more than 50 years and held executive positions with Lunenburg Foundry and Engineering Company, as well as the Lunenburg Marine Railway. Jim Kinley had also served in a number of military offices. He was a merchant marine during the Second World War and went on to serve as a commander in the naval reserves and head of the Navy League of Canada.

Mr. Kinley is probably best known for the time he spent as Lieutenant-Governor of Nova Scotia. He was appointed by the Governor General on the advice of Prime Minister Jean Chrétien in May 1994. He served the people of Nova Scotia in this capacity until the year 2000. In 2002, he was appointed to the Order of Nova Scotia and awarded the Queen Elizabeth II Golden Jubilee Medal. Other honours include the Sir John Kennedy Medal from the Engineering Institute of Canada, the Centennial Gold Medal, the Grand Commander of the Royal Norwegian Medal of Honour, the Knight of Grace, Knight of Justice and Vice Prior Order of Saint John of Jerusalem, and an Honorary Doctor of Engineering from Dalhousie University in 1995.

Jim Kinley is best remembered for his love of people and for striking up a conversation with everyone he met. It is because of this that he made many friends, both far and wide.

I would like to send my thoughts and prayers to his wife Grace, his four children and nine grandchildren. Jim was well respected and contributed immensely to the community. He will be fondly remembered by Nova Scotians.

#### HÉLÈNE CAMPBELL

**Hon. Ethel Cochrane:** Honourable senators, I rise today to celebrate the courage and determination of an exceptional Canadian, Hélène Campbell. She is the remarkable young woman from Barrhaven who is currently healing from a double lung transplant. Hélène's doctor, Tom Waddell, says "because she is so motivated, she is really a remarkable example of what can be achieved." In fact, she has been breathing on her own since April 23, is already exercising and on Sunday went outside for the first time since the procedure. Dr. Waddell says that she will make a full recovery.

It has been a whirlwind year for this young woman. Just last summer she was diagnosed with idiopathic pulmonary fibrosis, an incurable lung disease in which there is a thickening of the lung tissue. Her condition worsened, and she was placed on the transplant list in January.

While such a diagnosis might stop most people in their tracks, Hélène turned it into an opportunity. Using social media, she created an awareness campaign that brought much-needed attention to organ, tissue and blood donation.

As honourable senators are aware, her story went viral, and her message received the support of celebrities such as Justin Bieber and Ellen DeGeneres.

Following her efforts, registrations for donations soared. According to the Trillium Gift of Life Network, in Ontario there were 750 registrations in a single day — a dramatic increase over the usual number of 50. Can you imagine?

Honourable senators, I would like to commend Hélène and her family for their outstanding courage and their commitment in sharing their experience. Hélène's bright smile and strong spirit have been an inspiration to people at home and abroad. Above all, I want to thank her for her willingness and desire to help others in the midst of her own medical crisis.

On her blog, which can be found at [www.alungstory.ca](http://www.alungstory.ca), she notes that her favourite quote is by Ralph Waldo Emerson. It reads:

... to leave the world a bit better whether by a healthy child, a garden patch or a redeemed social condition; to know even one life has breathed easier because you have lived. This is to have succeeded.

Honourable senators, by this account and all others, Hélène Campbell has succeeded indeed. I invite you to join with me in extending belated birthday greetings to Hélène as well as best wishes and prayers for a complete recovery.

**Hon. Senators:** Here, here.



[Translation]

## WORLD PRESS FREEDOM DAY

**Hon. Céline Hervieux-Payette:** Honourable senators, on this World Press Freedom Day, I speak in this chamber today to assure the Canadian public that the fundamental principles of journalism are being respected.

Allow me to refer to the code of conduct of the Fédération professionnelle des journalistes du Québec to outline the fundamental values of journalism in Canada.

We know that journalists' work must be based on the critical thinking that pushes them to question everything, the impartiality that pushes them to do their research and report on the various aspects of a situation, the independence that keeps them at arm's length from power and lobby groups, the honesty that makes them stick to the facts, and a number of other principles.

In the collective agreement between CBC/Radio-Canada and the Syndicat des communications de Radio-Canada, which expires on September 30, 2012, it is agreed that in order to fulfill the mandate given to the corporation by Parliament through the Broadcasting Act, CBC/Radio-Canada staff members will report factually and without intent to deceive the public. The parties recognize that the primary professional obligations of the corporation and of its employees are toward the public, which is entitled to news and information that is impartial, complete, factual and balanced — that is from section 47.2 of the agreement.

On December 21, 2011, the Conservative government imposed a type of "pledge of allegiance" on all federal institutions through a so-called values and ethics code. The code describes the values and behaviours expected of public officials in all activities related to the performance of their professional duties. This so-called code was established by the Treasury Board, in accordance with section 5 of the Public Servants Disclosure Protection Act.

In this regard, it must be stated that under the Broadcasting Act, CBC/Radio-Canada staff are not subject to the so-called values and ethics code. Although the corporation is a federal institution, section 44(3) of the Broadcasting Act states that staff members are not officers or servants of Her Majesty.

In fact, under section 46(5), the corporation shall, in pursuit of its objects, enjoy freedom of expression and journalistic, creative and programming independence. Therefore, CBC staff enjoy an exception and are not subject to the values and ethics code.

Finally, CBC/Radio-Canada adopted a new code of ethics on April 2, 2012, to introduce guidelines for standards of integrity and professional conduct for its staff. This new code is a serious threat to the independence of the public broadcaster and its staff. Section 1.2 of the code states that CBC/Radio-Canada staff must loyally carry out the decisions of their leaders and support ministers in their accountability to Parliament and Canadians. And there is obviously no exception for the opposition.

The Conservative government and the new CBC/Radio-Canada code of ethics violate the principles of independence and impartiality that are so closely associated with the profession of journalism, and are a serious threat to the preservation of Canadian democracy, where freedom of the press is a fundamental value enshrined in our Constitution.

• (1350)

[English]

## FOREIGN-FUNDED CHARITABLE ORGANIZATIONS

**Hon. Dennis Glen Patterson:** Honourable senators, recently I spoke in this chamber on Senator Eaton's inquiry about the growing influence of foreign-funded charitable organizations which, in my opinion, are at times undermining the rights of northern peoples and their governments, Aboriginal peoples and rights and institutions enshrined in land claims agreements to manage our lands and resources in the North as we see fit.

Greenpeace, People for the Ethical Treatment of Animals and the Humane Society tell us not to hunt or eat seals. Coca-Cola wants to create a conservation area in the Arctic in what they predict will be the last ice refuge, a kind of Arctic zoo to protect polar bears.

Now the Pew charitable foundation, founded by a U.S. oilman, and its Canadian front, Oceans North, tells us from afar that Canada must work with Arctic nations to ban commercial fishing in a 2.8 million-square kilometre area in the central Arctic Ocean, international waters adjacent to Canada where they see continuing decline of sea ice. They have apparently coerced 2,000 scientists from 67 countries to join the cause, although the letter posted on Oceans North's website has only nine names.

The Pew foundation chose to grandstand with this pontification at the International Polar Year wrap-up conference in Montreal last week. On their websites, Pew and Oceans North proclaim their goals of working closely with indigenous peoples, but they have made their pronouncements without the approbation of the Inuit of Nunavut; the Inuvialuit of the N.W.T.; the co-management board which takes care of fish and wildlife management in Nunavut, the Nunavut Wildlife Management Board; and furthermore, without support from the fledgling but growing fishing industry in Nunavut.

What particularly incensed me was the outright rejection, in a CBC interview on *As It Happens* on April 23, 2012, by the spokesman for the Pew foundation, Henry Huntington, of even allowing an experimental fishery to explore fish stocks. Mr. Huntington, from Alaska and one of Pew's 687 employees, told CBC that science should precede any sustainable fishery, but he is afraid that if we do an experimental fishery we will scoop up a bunch of fish and discover that was the big stock that was up there and now it is gone.

Yet the Canadian experience in the North is that it is experimental fisheries, carefully controlled and planned, that have been used to develop our emerging fishery in the Arctic to date. This is how we have developed our very successful sustainable turbot fishery in Davis Strait, which for the first

time gave Inuit adjacent to these stocks a share of the quota. How else, I wonder, would Mr. Huntington from Alaska recommend we are to determine whether or not there are sustainable fish stocks in the Arctic waters? Should we send down scuba divers with cameras?

I am not making a blanket condemnation of organizations like Ducks Unlimited and the World Wildlife Fund, which are doing good work in southern Canada. However, when organizations like Pew and their Canadian front, Oceans North, with its unknown budget, which is for some strange reason laundered through Ducks Unlimited, and Coca-Cola seem to want to turn huge areas in the North into parks with no opportunities for sustainable harvest of resources or for sustenance or economic benefits for the Inuit, I cannot help but wonder whose agenda they are pursuing, despite what they say.

#### NATIONAL SCOUT ORGANIZATION OF UKRAINE—PLAST

##### CENTENNIAL ANNIVERSARY

**Hon. A. Raynell Andreychuk:** Honourable senators, I rise today to recognize the Plast Ukrainian Scouting Organization on its centenary. Created by Dr. Oleksander Tyovsky on April 12, 1912, Plast was founded on the values of service to God and one's country, helpfulness to others, leadership and citizenship.

Plast has a proud history in Canada. Ukrainian Canadians kept the Plast tradition alive in Canada through the years of the Soviet occupation of Ukraine when Plast was banned behind the Iron Curtain.

Following the collapse of the U.S.S.R., Ukrainian Canadian volunteer organizations, with the support of the Canadian government, played a critical role in fostering the re-emergence of Plast in Ukraine.

Today, Plast is active in all the provinces of Ukraine, in eight countries around the world, and in eight Canadian cities. This August, Plast will celebrate its one-hundredth anniversary at a world-wide jamboree at its birthplace in Lviv, Ukraine. Some 400 Canadians aged 12 and up will attend that celebration.

I applaud them for making what promises to be a life-changing voyage and encourage them to carry the Plast tradition in Canada into the next generation.

I join with the Ukrainian Canadian community in celebrating Plast's contribution to the lives of thousands of young Canadians and to Canadian society as a whole, as well as to Ukrainian society today, where it is most needed.

## ROUTINE PROCEEDINGS

### STUDY ON ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON-LAW RELATIONSHIP

#### FIFTH REPORT OF HUMAN RIGHTS COMMITTEE PERTAINING TO THE REQUEST FOR A GOVERNMENT RESPONSE TABLED

**Hon. Mobina S.B. Jaffer:** Honourable senators, I have the honour to table, in both official languages, the fifth report of the Standing Senate Committee on Human Rights, which deals with inviting the Minister of Aboriginal Affairs and Northern Development to appear with his officials before the committee.

#### HUMAN RIGHTS

##### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE—SIXTH REPORT OF HUMAN RIGHTS COMMITTEE PRESENTED

**Hon. Mobina S.B. Jaffer,** Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, May 3, 2012

The Standing Senate Committee on Human Rights has the honour to present its

#### SIXTH REPORT

Your committee, which was authorized by the Senate on Wednesday, March 15, 2012, to examine and report on issues pertaining to the human rights of First Nations band members who reside off-reserve, with an emphasis on the current federal policy framework, requests funds for the fiscal year ending March 31, 2013, and requests, for the purpose of such study, that it be empowered:

- (a) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and
- (b) to adjourn from place to place within Canada; and
- (c) to travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

MOBINA S.B. JAFFER  
Chair

(For text of budget, see today's Journals of the Senate, Appendix, p. 1231.)



**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Jaffer, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

## PALLIATIVE CARE

### NOTICE OF INQUIRY

**Hon. Elizabeth Hubley:** Honourable senators, pursuant to rule 57(2), I give notice that, two days hence:

I shall call the attention of the Senate to the state of palliative care.

## ORDERS OF THE DAY

### JOBS, GROWTH AND LONG-TERM PROSPERITY BILL

#### SELECT COMMITTEES AUTHORIZED TO STUDY SUBJECT MATTER

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government),** pursuant to notice of May 2, 2012, moved:

That, in accordance with rule 74(1), the Standing Senate Committee on National Finance be authorized to examine the subject-matter of all of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, introduced in the House of Commons on April 26, 2012, in advance of the said bill coming before the Senate;

That the Standing Senate Committee on National Finance be authorized to sit for the purposes of its study of the subject-matter of Bill C-38 even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto; and

That, in addition, and notwithstanding any normal practice, the following committees be separately authorized to examine the subject-matter of the following elements contained in Bill C-38 in advance of it coming before the Senate:

- (a) the Standing Senate Committee on Energy, the Environment and Natural Resources: those elements contained in Part 3;
- (b) the Standing Senate Committee on Banking, Trade and Commerce: those elements contained in Divisions 2, 10, 11, 22, 28, and 36 of Part 4;
- (c) the Standing Senate Committee on National Security and Defence: those elements contained in Division 12 of Part 4;

(d) the Standing Senate Committee on Transport and Communications: those elements contained in Division 41 of Part 4; and

(e) the Standing Senate Committee on Social Affairs, Science and Technology: those elements contained in Division 54 of Part 4.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I have a comment, if I may. This work plan was suggested by the government, and on this side we were pleased to agree to it.

• (1400)

We think this plan will enable the Senate to do very careful work and conduct a very careful study of what is a very large bill. It seems a most sensible way to proceed in the circumstances. We have received satisfactory assurances from the other side that there will be no unreasonable restrictions on the extent of the committee hearings or on the witness list. On that basis we are pleased to support the motion.

**Senator Comeau:** I wish to thank the Leader of the Opposition for agreeing to the approach. I think it will avoid the pressure cooker atmosphere that can sometimes happen towards the end of the session. This gives us lots of time to deal with an extremely important piece of legislation. Thank you very much.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** Shall I dispense?

**Some Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

[Translation]

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Pierre-Hugues Boisvenu** moved second reading of Bill C-310, An Act to amend the Criminal Code (trafficking in persons).

He said: Honourable senators, I am pleased to take part in the debate at second reading of Bill C-310, An Act to amend the Criminal Code (trafficking in persons).

This bill is an initiative of Conservative Member of Parliament Joy Smith and follows in the footsteps of Bill C-268, which made trafficking in children and minors a crime punishable by harsh sentences in Canada.

[English]

I would like to highlight in this chamber the courage and the wonderful work of the Member of Parliament for Kildonan—St. Paul, Mrs. Joy Smith, who introduced Bill C-310 in the House of Commons. Mrs. Smith's efforts will help spare more lives from human trafficking. More women and men will be saved because of this new bill that I have the honour to introduce today at second reading. Mrs. Smith also introduced Bill C-268 to fight human trafficking which is now law.

[Translation]

Bill C-310 was drafted specifically to make two changes to the Criminal Code of Canada. It makes it an offence for Canadian citizens or permanent residents to engage in human trafficking outside Canada and adds factors that the courts may consider when determining what constitutes exploitation within the context of human trafficking.

The term "human trafficking" is often confused with the term "human smuggling," the illegal transport of people across international borders.

Human trafficking does not necessarily involve illegal transport across a border. In fact, there have been cases of human trafficking within Canada. For example, there are criminal gangs that trade young women like merchandise.

What is human trafficking?

The United Nations' Palermo protocol, a supplementary protocol to the Convention on Transnational Organized Crime, seeks to prevent, suppress and punish trafficking in persons, especially women and children. It defines trafficking in persons for the purpose of providing a common basis for the prevention of trafficking, prosecution of offenders and protection measures for victims.

More specifically, the Palermo Protocol contains three essential elements meant to define human trafficking more clearly. The first element is the act itself, which can be the recruitment, transportation, transfer, harbouring or receipt of persons. The second element can be defined as the means used to commit human trafficking. This includes threats or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability. It includes the giving or receiving of payments or benefits to achieve the consent of a person against his or her will. Lastly, the third element has to do with the aim of human trafficking.

Forms of exploitation include, but are not limited to: the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

There is no doubt that human trafficking is a modern form of slavery.

The government was very effective in getting Bill C-268 passed. That bill imposes harsh, fair and reasonable sentences on anyone who commits human trafficking of people under the age of 18.

Bill C-310, which I am introducing today at second reading, constitutes another major step forward in the fight against human trafficking here in Canada and abroad.

Human trafficking is happening just a few kilometres from here. A few weeks ago, the Montreal police service arrested Jamie Byron, who had been charged by the Ottawa police force with a number of serious offences related to human trafficking, including the trafficking of a minor. Jamie Byron was forcing underage girls to work as prostitutes. What he put a 17-year-old girl from Windsor, Ontario, through is but one example.

[English]

In an Ottawa hotel, a young girl of 17 from Windsor, Ontario, has suffered terrible acts of physical and psychological abuse. She was deprived of food until she agreed to prostitute. This is nothing less than slavery.

[Translation]

According to the Criminal Intelligence Service of Canada, across the country, organized crime networks are actively trafficking Canadian-born women and underage girls inter- and intra-provincially, and in some instances to the United States, destined for the sex trade. Traditionally considered prostitution, human trafficking in Canada for the purposes of sexual exploitation is starting to become recognized as such by the Canadian judicial system through changes that have been made to our Criminal Code over the past few years, which have established offences directly related to human trafficking.

According to the evaluation conducted by the CISC's central office, organized crime networks generate most of their illegal revenue by confiscating their victims' earnings, which can be between \$300 and \$1,500 a day per prostitute. The victims may be traded or sold and may also be used to connect with clients for other criminal activities such as cocaine trafficking. In general, the victims are young, middle-class females between the ages of 12 and 25, who are recruited by male peers who may also have been specially recruited to engage in organized crime.

Last year, I met with social workers from youth centres in the Montérégie area, south of Montreal, who were involved in the Mobilis project. This project, which is funded by our government, serves to prevent crime among minors, particularly young women. At that time, I was told that these social workers were monitoring almost 200 young women between the ages of 12 and 14 who were engaged in prostitution in Longueuil in order to pay off their drug debts.

Here, honourable senators, I must commend the members of the Longueuil police force for the excellent work they are doing to actively help the young people in their area get their lives back on track.

This bill must be passed for two reasons. First, the Criminal Code's current definition of exploitation in the context of human trafficking is too narrow to encourage victims to speak out and facilitate the work of prosecutors and police officers.



• (1410)

Indeed, cases of exploitation are difficult to prove. The agencies consulted fully agree with the idea of specifying the factors that the courts could take into account to determine what constitutes exploitation. Such clarifications are necessary if we want the sections of the Criminal Code to be effective.

The current definition of trafficking in persons is based on a very restrictive and complex definition that prevents lawyers from preparing solid evidence to help prove cases of abuse.

The current definition is based on the threat to the victim's safety. The current section 279.04 of the Criminal Code stipulates that a person exploits another person if they cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service. This definition leaves out the use of deception and the abuse of a position of trust, and other forms of constraint.

The second reason this bill should be passed is that the Conservative government wants to ensure that Canadians who commit these barbaric acts abroad can be tried in Canada even if the acts were committed outside the country. That is why this bill will extend Canadian extraterritorial jurisdiction to the offence of human trafficking.

Traffickers often look for victims in a given country and transfer them to another country. For example, a Canadian criminal who recruits, transports, transfers, receives, holds and controls his victims in Ukraine or in another country, does not fall under Canadian jurisdiction and does not face charges on Canadian soil.

[English]

Bill C-310 is designed to correct this injustice. It will ensure that such an individual could be held criminally responsible in Canada for acts committed abroad.

[Translation]

In other words, this bill will insure that the human trafficking offences involving in the Criminal Code of Canada will apply to Canadians who traffic in humans in one or more foreign countries.

This bill would apply to people like John Wrenshall, for example.

[English]

Who is John Wrenshall? John Wrenshall is a Canadian who led a double life. At home in Canada, he was living like an honest citizen. John Wrenshall is a Canadian serving 25 years in an American prison for running a child prostitution ring in Thailand. He was trafficking young boys and arranging for international

tourists to visit his brothel. The United States arrested Wrenshall in the United Kingdom after he left Thailand for aiding and abetting an American to sexually abuse children abroad.

[Translation]

As I was recently reminded by M.P. Joy Smith, who introduced this bill, "However, had Mr. Wrenshall managed to return to Canada, we would not have been able to prosecute him for human trafficking since Canada's trafficking in persons offences are not extraterritorial." This bill will address this shortcoming.

People guilty of trafficking outside Canada will be subject to the sentences already provided in the Criminal Code.

Canada is not the only country that has decided to designate Criminal Code offences as extraterritorial trafficking offences. In fact, Germany, Cyprus and Cambodia have extended international jurisdiction to their domestic human trafficking offences.

The United Nations Convention against Transnational Organized Crime requires countries that are signatories to the convention to establish jurisdiction to investigate, prosecute and punish all offences established by the convention on the trafficking of persons protocol, which Canada has done. Our Conservative government has upheld Canada's commitments.

I would also like to point out that human trafficking can take many forms. Trafficking in persons can occur for sexual exploitation, but it can also consist of forced labour, or other forms of servitude.

Yuri Fedotov, the head of the United Nations Office on Drugs and Crime, estimated that as many as 2.4 million people worldwide are victims of human trafficking at any given time.

[English]

On August 31, 2011, the *Toronto Sun* published a striking article on the problem of human trafficking. The journalist wrote:

The United Nations highlights human trafficking as one of its key concerns.

In a study of 155 countries it found that sexual exploitation is the most common form of human trafficking, with 79 per cent of victims used for the sex trade; 18 per cent for forced labour.

Most slaves are women; most traffickers are men. However, some traffickers are also women.

[Translation]

In light of those facts, I would like to address the legal provisions that are the subject of the bill. In response to the two major challenges I just described — that is, the urgent need to update the definition of human trafficking and the importance of holding people criminally responsible in Canada for acts committed abroad — our government, committed to the cause of victims, has introduced Bill C-310. This bill provides public prosecutors and police forces with important legal tools.

In terms of the law, the bill introduces three important changes to the Criminal Code. First of all, Bill C-310 adds the current trafficking in persons offences, namely, sections 279.01 and 279.011, to the list of offences which, if committed outside Canada by a Canadian or permanent resident, can be prosecuted in Canada. Section 279.01 deals with trafficking in persons, while section 279.011 deals specifically with trafficking in children, that is, minors under the age of 18.

Second, Bill C-310, which will we examine, was amended during study by the House of Commons committee. The amendments mean that two other sections of the Criminal Code dealing with human trafficking could also result in criminal prosecution in Canada even if the acts are committed abroad. Those sections are 279.02 and 279.03.

Section 279.02 refers to cases in which a person receives a financial or other material benefit, knowing that it results from a human trafficking offence.

Section 279.03 refers to cases in which a person conceals, removes, withholds or destroys any travel document, such as a passport, that establishes another person's citizenship.

[English]

Third, Bill C-310 will amend the definition of exploitation and human trafficking to include an interpretive tool for the courts when determining whether a person suffers or not from human trafficking.

[Translation]

Therefore, clause 2 of Bill C-310 was amended to help judges determine whether the accused exploited another person for the purpose of trafficking. The courts may consider new factors in determining whether human trafficking occurred, such as the use of force, coercion or deception, or the abuse of power or trust.

The amended definition of "exploitation" will give the courts another way to determine whether a person has been exploited. This amendment was included at the request of lawyers and prosecutors who found it difficult to prove exploitation and human trafficking under the existing definition of "exploitation." The existing definition was too narrow to achieve justice and help victims escape their awful predicament, and it was certainly too narrow to persuade victims to speak up.

Canada's current definition of human trafficking does not include the methods of exploitation described in the United Nations' 2000 Palermo Protocol. Clause 2 of Bill C-310 is inspired by the Palermo Protocol.

• (1420)

According to the Palermo Protocol, "trafficking in persons" is the action of recruitment, transportation, transfer, harbouring, or receipt of persons by means of the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or payments or benefits to achieve the consent of a person for the purposes of exploitation.

[ Senator Boisvenu ]

[English]

Bill C-310 corrects the holes in the definition of exploitation by including cases of deception, abuse of power and other forms of coercion.

[Translation]

By adopting this bill, Canada will be complying with the Convention against Transnational Organized Crime, which Canada has signed and ratified and which encourages the establishment of extraterritorial jurisdictions.

Honourable senators, there are three good reasons for designating a criminal offence as an extraterritorial offence. Allow me to explain in the context of human trafficking.

First, recognizing the offence of trafficking in persons committed outside Canada will allow us to fight effectively against Canadian criminals who believe they can destroy the lives of women, men and children with impunity because they commit their crimes outside Canada.

Second, recognizing the offence of trafficking in persons committed outside Canada will help with giving harsh and fair sentences for crimes committed in countries where sentences are often minimal or non-existent.

Third, recognizing the offence of trafficking in persons committed outside Canada will send a clear message to the international community that Canada will not tolerate seeing its own citizens making a living abroad on trafficking in persons without consequences and often to the detriment of young children.

This bill represents an effective response to this scourge. It makes the necessary changes to modernize our legislative tools.

I will close by pointing out that this bill has received the support of many organizations that work with victims, including the Canadian Resource Centre for Victims of Crimes, the Canadian Women's Foundation, the Salvation Army, Beyond Borders, World Vision Canada and the Canadian Federation of Business and Professional Women.

I would like to note what one Canadian victim of human trafficking had to say. Ms. Timea Nagy, the program director for Walk With Me, an organization that appeared before the committee in support of the bill, said:

[English]

As an internationally trafficked survivor, who has been working with Canadian law enforcement to help human trafficking victims, I am absolutely thrilled to see this legislation. . . . This Bill will help Canadian law enforcement and prosecutors to be able to do their job and send a message to traffickers around the world, that Canada does not tolerate this crime against human dignity.



[Translation]

Even Liberal and NDP members supported this bill. In his speech, the Honourable Irwin Cotler said:

Indeed, some Canadians have a hand in human trafficking, and it is therefore important, as this legislation seeks to do, to send a message that complicity in the trafficking of persons is not only not acceptable in any way but that we in fact will pursue those traffickers, be they Canadians, here and abroad. This therefore includes extending the reach of our laws to actions that occur beyond our borders.

Let me emphasize that this bill does not target cases of sexual exploitation alone. It also goes after criminals who traffic in persons for the purpose of forced labour or slavery. People arrive from other countries, having been transported here to serve as slaves and to do work of various kinds. Take, for example, the case of 19 young Hungarians who lived in a cave in Windsor and were forced to work in construction day and night. They were fed table scraps. Ferenc Domotor, age 49, and his wife were found guilty of human trafficking.

Honourable senators, if you look at what the Canadian government has done so far to fight human trafficking, you will note that we introduced Bill C-49, the first bill targeting human trafficking, which received royal assent in 2005.

Our Conservative government also passed Bill C-268, which imposes mandatory minimum sentences for trafficking in children.

Thanks to this new bill, we will also now possess other tools for victims, for police forces and for Crown prosecutors.

If you pay attention to the media, you know that, until very recently, there were very few cases of human trafficking being prosecuted in Canada. Today we have 19 criminal proceedings related to human trafficking in Canada that have resulted from charges related to Bill C-268. We also have 55 other cases of human trafficking related to other Canadian laws before the courts.

Now, thanks to the legislation that we have passed, police forces can arrest these people, and with Bill C-310, we will ensure that Canadians who commit these crimes abroad will be held responsible in Canada. We will see to it that the law is interpreted in a less restrictive manner for the benefit of victims.

Honourable senators, let us join together to show our support for Tímea Nagy and so many other victims, in order to ensure that criminals who engage in human trafficking, not only in Canada, but also abroad, and those who traffic in children will know that they will be held criminally responsible in Canada, even if they commit their crimes in countries that are not very strict when it comes to prosecuting human trafficking offences.

Honourable senators, thank you for paying attention to another important bill in favour of victims.

(On motion of Senator Jaffer, debate adjourned.)

[English]

## HUMAN RIGHTS IN IRAN

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Frum, calling the attention of the Senate to egregious human rights abuses in Iran, particularly the use of torture and the cruel and inhuman treatment of unlawfully incarcerated political prisoners.

**Hon. Joan Fraser (Acting Deputy Leader of the Opposition):** Honourable senators, as I said last week, I owe an apology to Senator Frum. She has been very patient while I let this item stand on the Order Paper for too long. I would not want her to think I did so because I underestimated the importance of her inquiry.

However, as it turns out, I am rather pleased that it is today I am finally able to speak to this inquiry. As honourable senators know, today is World Press Freedom Day, and there are few topics on which Iran raises more questions than press freedom.

To mark today's occasion, the Committee to Protect Journalists has just released its list of the 10 Most Censored Countries. Iran is number four, coming after Eritrea, North Korea and Syria. According to Reporters Without Borders and the Committee to Protect Journalists, Iran is at the top of the list as a country with the most imprisoned journalists. Perhaps even more shocking is that the journalists themselves are not the only ones subject to silencing tactics. Human Rights Watch has reported that "The Iranian government has been intimidating and detaining relatives and friends of foreign-based Persian-language journalists."

In other words, Iran is not a safe country in which to practise journalism. There are many examples of journalists who pay a terrible price for practising their craft. Today I want to tell honourable senators about one very recent case.

Kaveh Rezaie is a student journalist and a blogger. He is 26 years old. He studied mechanical engineering before being expelled from university.

• (1430)

He was expelled because he is an activist for civil and human rights and for women's rights. He was, for example, part of the One Million Signatures Campaign, also called "Change for Equality," a movement in Iran to collect 1 million signatures in an effort to change laws which discriminate against women. He even helped to found a university men's group in solidarity with the One Million Signatures Campaign.

Kaveh was involved in shedding light on the case of Zahra Bani Yaghoub, an Iranian woman and medical doctor who was taken as a political prisoner. It was reported that she had allegedly committed suicide in prison, but her family and Iranian activists strongly suspect that she was murdered by Iranian authorities. Kaveh wrote about Dr. Bani Yaghoub in his blog.

When he was a student reporter, Kaveh used to write for ISNA, an official Iranian national university publication, but he was fired from that job.

Last week, on April 24, Kaveh was taken to the notorious Karaj central prison to serve an 18-month sentence that had been issued to him by the Iranian judiciary. According to reports from Tehran, he was transferred from the quarantine ward to a small cell where he is being held with drug addicts and dangerous criminals. Reports indicate that Kaveh is the only known political prisoner in the Karaj central prison. According to confirmed sources, he has endured psychological abuse on a daily basis, and there are fears that he is at risk of physical harm.

A close friend of his was quoted online yesterday by activists. The friend said:

Kaveh Rezaie is an educated young man who was a soldier of justice. He sought the truth in all his endeavours and he never expected anything in return. As a result they have thrown him in a prison cell with drug addicts!

This is not, by the way, Kaveh's first arrest. He was arrested once before in 2008, again for his blogging and civil activism.

Iranian authorities have increased the pressure on him for continuing to discuss the Iranian government's unjust treatment of his people, and Iranian activists suspect his recent persecution is linked to the content in his blog and, particularly, the post regarding the late Dr. Bani Yaghoub.

Kaveh wrote mainly about the everyday struggles of Iranian citizens. He felt it was his duty as a concerned Iranian citizen to speak out about the truth. Now he has been prevented from continuing his work. Now it is our obligation to give a voice to those who have been silenced, to all those who have been silenced, but particularly on this day, of all days, to all those journalists in Iran who have been silenced.

(On motion of Senator Cools, debate adjourned.)

[Translation]

## HUNGER AWARENESS WEEK

### INQUIRY—DEBATE ADJOURNED

**Hon. Percy Mockler** rose pursuant to notice of May 1, 2012:

That he will call the attention of the Senate to Hunger Awareness Week, an initiative of the Food Banks of Canada from May 7-11, 2012 and the challenge calling on Parliamentarians to fast on May 9, 2012 in order to experience what hunger feels like for hundreds of thousands of Canadians.

He said: Honourable senators, when we stop to reflect, we often think of those who are the most vulnerable.

Honourable senators, I think we would all agree that generosity, tolerance, open-mindedness and lending a helping hand to the most vulnerable are all synonymous with the definition of Canada.

[ Senator Fraser ]

For me, life is a book and everyone's book is unique. It reflects who we are — our values, our principles and our personal stories. Each day, we add a page of our history to this unique book. I must admit that, sometimes, we might wish that we could tear certain pages out of that book, but we cannot because, ultimately, it is our book. That is why our book is unique. It reflects who we are and where we want to go.

[English]

Honourable senators, I want to take this opportunity to congratulate Food Banks Canada and their manager of government relations, Mr. Philippe Ozga, for a great initiative, namely, the Hunger Awareness Week of May 7 to 11. That is very important for all Canadians.

[Translation]

Honourable senators, next week is Hunger Awareness Week. Many of us will fast for a day to experience what hunger feels like for the hundreds of thousands of Canadians who have been dealing with this problem since 2008.

Today, I would like to talk about the hunger problem in Canada and the key role played by food banks across our country, from coast to coast to coast. We are told that, right now, every month in Canada close to 900,000 people rely on the help of a food bank.

It is important to understand the problem of hunger so that we can deal with it appropriately and strategically. *HungerCount 2011*, a report published by Food Banks Canada, outlines the current situation. I have some statistics to share. Half the households that turned to food banks for help were families with children; nearly one in five of these households reported that current or recent employment was their primary source of income; and, what is worse, seven per cent of them receive the majority of their income from pensions.

[English]

These are Canadians who are working or who have worked all their lives, who are raising their families in the best way they know how. They are Canadians not unlike you and me who are facing unanticipated and, sometimes, undeserved periods of hardship. Perhaps they lost their job during this recession. Perhaps they are older Canadians who have recently lost their husband or wife and thus a degree of financial security. Perhaps they are escaping unhealthy relationships and need help to put food on the table for their kids. Maybe they are experiencing a health issue that has forced them to leave their job. In a different circumstance, in a different time, it could be any one of us.

Honourable senators, let me share with you that 40 per cent of those helped by food banks are single people living alone. I understand that they are predominantly older men who often have mental and physical health problems and who have not been able to gain a strong footing in our present labour force.

Fifty per cent of food bank clients report that their primary source of income is provincial welfare benefits. I know it. I have experienced it.



• (1440)

Ten per cent identify as First Nations. We know that Metis or Inuit populations are, unfortunately, at higher risk of poverty.

[Translation]

Honourable senators, food banks are true community organizations. At a time when life sometimes seems to be faster paced and more complicated than ever before, they provide a way for people to support members of their community who have fallen on hard times.

They also provide a way for members of a community to say, "Today, I am going to give because tomorrow I may need help."

[English]

They are simply concerned citizens, neighbours, and church and service groups who have been and are responding to a need in their communities.

As Senator Robichaud mentioned last week, in my home province of New Brunswick, nearly half of the food banks have no paid staff and, as a rule, these organizations are lean and run efficiently. Food banks in New Brunswick provide an important role in our society, like everywhere else from coast to coast to coast.

There is an incredibly strong tradition of volunteerism in Canada — that is who we are — and the food bank network depends on a network of committed, dedicated volunteers. In the month of March 2011 alone, more than 50,000 volunteers contributed their valuable time and efforts to helping their neighbours at food banks. This is, honourable senators, an incredible testament of the health of civil society in our country.

[Translation]

What does it mean to fast? It means to go without a meal or a favourite food each day of the week, or to skip every meal for one day. It is important to share our experience, to spread the word by talking about it.

[English]

Honourable senators, there is no doubt in my mind that we are all open to the challenge that Food Banks Canada has given us, to challenge parliamentarians and their staff. On Wednesday, May 9, to raise awareness for Hunger Awareness Week on Parliament Hill, Food Banks Canada has asked all parliamentarians and their staff to fast for one day, Wednesday, May 9, from 7 a.m. to 7 p.m. I want to share with honourable senators new statistics from the last 72 hours: Over 110 parliamentarians and staff are registered to fast next week.

Honourable senators, this is an incredibly important problem. A person who does not have enough to eat cannot work, cannot study and cannot raise their families to the best of their ability. A child who does not have enough to eat, a child who goes to bed or to school hungry, cannot learn and reach their full potential. This is not only a problem for that person; it is a problem for Canada. We need all Canadians to be able to work, to learn, to contribute and to develop wealth.

Our government, honourable senators, regardless of political colours, understands that. Though food banks provide an essential service, they cannot do so alone and government has a role to play as well. This is why we introduced the Working Income Tax Benefit, to help Canadians get off welfare and into a job.

I remember what my mother used to say to us, that the best social program was a job through education and training.

This is why our government also introduced Work-Sharing within the Employment Insurance program in order to help employers retain skilled employees and avoid layoffs during economic downturns. This is why we have committed to maintaining the 3 per cent annual increase in the Canada Social Transfer to support provincial governments in order to provide needed social services, child care and other programs. This is why we strengthened the Guaranteed Income Supplement for seniors most at risk of poverty. We must continue creating jobs and taking care of our economy and the most vulnerable.

In conclusion, honourable senators, to be clear, reducing hunger in Canada is not a partisan issue. This is a problem that has persisted for decades in this country, from coast to coast to coast, and it will take all of us to address it.

To those already involved, I salute you. To those that should be involved, we have time, on Wednesday, May 9. We all have a common denominator regardless of where we live from coast to coast to coast and that common denominator is that we want to make our areas, our provinces, our Canada a better place to live, a better place to raise our children, a better place to work and a better place to reach out to the most vulnerable.

**The Hon. the Speaker:** Further debate?

(On motion of Senator Hubley, debate adjourned.)

[Translation]

## ADJOURNMENT

### MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

**Hon. Gerald J. Comeau (Acting Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, May 8, 2012, at 2 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, May 8, 2012, at 2 p.m.)

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# DEBATES OF THE SENATE

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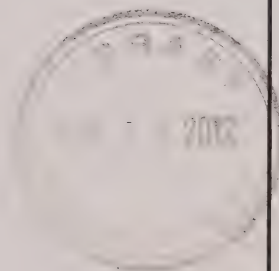
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OFFICIAL REPORT  
(HANSARD)

Tuesday, May 8, 2012

The Honourable NOËL A. KINSELLA  
Speaker



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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Tuesday, May 8, 2012

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### NATIONAL CHILD AND YOUTH MENTAL HEALTH DAY

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, yesterday was National Child and Youth Mental Health Day, a fitting start to the sixty-first annual Mental Health Week.

The statistics are stark: 20 per cent of Canadian youth suffer from a mental disorder. Senator Ataullahjan gave a moving statement here last Thursday about young Canadians who commit suicide. As she pointed out, suicide is the second leading cause of death for young Canadians between the ages of 10 and 24. A recent study by a researcher at the Public Health Agency of Canada found that youth suicide rates are rising in Canada amongst young girls. Mental illness is a factor in most suicides in Canada.

The good news is that help can make a difference. Dr. Stan Kutcher, one of the leading experts in Canada, and indeed the world, on adolescent mental health, has said that about 70 per cent of all mental disorders can be diagnosed before the age of 25 years. Early identification and diagnosis of mental disorders can lead to effective treatments that can improve the lives of young people during their adolescent years and into the future.

The bad news is that only one in five Canadian children who need mental health care receives it. Senator Ataullahjan asked poignantly: "Are we failing our youth?" I think the answer is, yes.

It has been said that if heart disease affected 20 per cent of our young people, there would be cardiac units on every corner. For the mentally ill, there are long waiting lists — or no care at all. Our former colleague, the Honourable Michael Kirby, who was the first Chair of the Mental Health Commission of Canada, has said that the worst part of the mental health system is the children and youth system. He said that in most places in the country, families have to wait a year or more to get help.

Honourable senators, that is a horrific statistic.

Of course, you can only join a waiting list once you reach out for help. One of the most tragic aspects of mental illness is the stigma that still attaches and stops young people from speaking out, and friends and family from reaching out.

Honourable senators, as is so often the case, positive change begins with one small step by one person.

Keli Anderson is a mother in British Columbia who has a son with significant mental health challenges. In 2007, she and another mother had an idea: to set a day — one day — for

Canadians to come together on youth and mental health. They wanted to create an opportunity for people to connect, to break down that stigma of people feeling that they just cannot talk about their own or their child's mental illness. They wanted a day in early May. The year was 2007, so they picked May 7, 2007.

That first year, there was one small event in one city; but this was something so needed that resonated with families everywhere and the idea quickly spread. Last year, there were events in seven cities. This year, they received requests for event kits from 70 sites across the country.

To give you a small insight into how this event is helping, you should know that the 70 kits sent out this year were put together by a group of high school students in Abbotsford, British Columbia. They had lost a school friend to suicide, and they wanted to do something concrete that maybe would help another young person like their friend they missed so much.

Keli says so much starts by simply allowing people to say, "Hello, we are here. Help us. Join us. Acknowledge us." That is what National Child and Youth Mental Health Day is all about. Honourable senators, please join me in saluting the work of Keli Anderson and her organization, the Institute of Families for Child and Youth Mental Health. In particular, let us join together in order to work toward improving mental health for our young people.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of participants in the Parliamentary Officers' Study Program, who are here for a couple of weeks under the direction of the Clerk of the Senate.

On behalf of all honourable senators, welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

[Translation]

Honourable senators, I also wish to draw your attention to the presence in the gallery of a group of people from the province of Quebec: Gisèle Verner and Jeannine and Aurèle Lamadeleine.

They are guests of the Honourable Senator Verner.

On behalf of all honourable senators, welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

[English]

#### MENTAL HEALTH WEEK

**Hon. W. David Angus:** Honourable senators, one just cannot say enough about mental health; I think all would agree. Yesterday marked the beginning of Mental Health Week 2012



in Canada. I urge all honourable senators to devote special time this week to reflect upon the plight of those literally millions of Canadians who are afflicted with mental disorders or illness.

• (1410)

During their lifetime one out of every five Canadians — some 6.7 million people — will suffer directly from a mental health problem of one kind or another, and thousands more of their family members and loved ones will suffer indirectly. Mental illness costs the Canadian economy an estimated \$51 billion annually in health care and lost productivity.

Today the Canadian Mental Health Association is celebrating 61 years of its ongoing effort to improve Canadians' understanding and awareness of the special needs for services and support for those people suffering from mental disorders.

During Mental Health Week, Canadians from all walks of life, including senators, are being encouraged to learn, talk, reflect and engage with others on the wide range of issues relating to mental health. A particularly critical issue, as Senator Cowan has just pointed out, is the need to obviate the stigmatization and discrimination which still besets mentally afflicted Canadians on a totally unacceptable scale.

Despite the valiant efforts of hundreds of local mental health facilities and organizations across Canada, and of organizations like the Canadian Mental Health Association and its some 40,000 volunteers across the land, we are sadly still just scratching the surface in terms of transforming Canada's mental health system so that it can properly serve the pressing needs of citizens with mental disorders. I am sure honourable senators will agree that the status quo is simply unacceptable.

Honourable senators, I could stand here all day recounting one heart-wrenching story after another, including my own family's story, to highlight the deplorable circumstances which, even in 2012, still confront Canadians with mental health problems because of the critical lack of appropriate services and access to treatment and support. One striking example of this played out recently before members of the Standing Senate Committee on Legal and Constitutional Affairs. The committee examined and reviewed the package of so-called "crime bills" in Bill C-10. Senators on the committee were, to say the very least, deeply moved and distressed by the evidence they repeatedly heard respecting the appalling way persons with mental disorders are treated and dealt with in our criminal justice system.

Honourable senators, it bears repeating today that the legal committee, in reporting Bill C-10 back to the chamber, observed in part that:

One of the most consistent concerns heard throughout the committee's hearings was the difficulty that the correctional system faces in dealing effectively with the multitude of challenges posed by offenders who suffer from mental illness, especially severe mental illness, and the "revolving door" impact this has on costs to the justice system and society at large — police and courts, correctional facilities, victims of crime, and property damage. . . .

We urge the Correctional Service of Canada to urgently address this growing challenge . . .

Honourable senators, it is because of such distressing problems that we and all caring Canadians must take advantage of Mental Health Week to speak out and urge decision-makers at all levels to redouble their efforts to address such critical mental health issues as these. Passionate and enlightened leadership is urgently needed to make a difference. Let us find it and support it.

## NATIONAL CHILD AND YOUTH MENTAL HEALTH DAY

**Hon. Jane Cordy:** Honourable senators, I am also pleased to recognize that this week is National Mental Health Awareness Week. Yesterday, May 7, was the sixth annual National Child and Youth Mental Health Day. One in five of all Canadians will experience poor mental health at some point in their lives, and 70 per cent of those mental health issues will initially appear before the age of 25.

Honourable senators, one in six children will experience a mental health problem that impacts their ability to function in school, at home and in their community. Mental disorders are the most common medical illness among teenagers and, sadly, as a result, suicide is the second leading cause of death among 10-year-olds to 19-year-olds. Prevention and early intervention efforts targeted to children, youth and their families are vital to reversing these numbers and for creating healthy Canadian communities. Early intervention can improve school readiness, health status and academic achievement.

Unfortunately, three out of every five children in Canada with poor mental health are not receiving any form of mental health service. This accounts for nearly 1.6 million children and youth who are not being treated.

Dr. Stan Kutcher, a professor at Dalhousie University, is the Sun Life Financial Chair in Adolescent Mental Health and he is the director of the World Health Organization Collaborating Centre in Mental Health. He is working hard to transform how we provide mental health care for children and youth in Canada. Through the Mental Health Commission of Canada, Dr. Kutcher is helping develop a national child and youth mental health framework to help provide guidance and a resource for provinces to share best practices when addressing mental health.

Dr. Kutcher has shown great leadership in school mental health policies through school curriculum and teacher training.

Nova Scotian schools are implementing a number of Dr. Kutcher's groundbreaking initiatives. Promoting student health and well-being has long been a goal of education policies in schools, with the focus on physical health, healthy eating habits, encouraging physical activity and the prevention of tobacco and substance use. However, in the past, mental health issues have sometimes been ignored. With the help of Dr. Kutcher's initiative, schools now provide an important vehicle through which mental health promotion, disorder prevention, case identification, triage and intervention can be realized. These initiatives will help to remove the stigma that has traditionally been associated with mental health issues. As

honourable senators know, the stigma attached to mental illness often means that Canadians are reluctant to seek help to improve their well-being.

Honourable senators, National Child and Youth Mental Health Day coincides with the Canadian Mental Association's Mental Health Week, which takes place this week. It is a time to encourage people from all walks of life to learn, talk, reflect and engage with others on all issues relating to mental health.

I would like to thank Dr. Kutcher for the work that he is doing in the field of child and youth mental health. I would also like to thank the champions of mental health who have told their personal stories, which will help eliminate the stigma attached to mental illness.

Senator Roméo Dallaire was a Champion of Mental Health Award winner in 2005. I would also like to congratulate Senator David Angus, who was presented a Champion of Mental Health Award at the award's dinner last evening.

**Hon. Senators:** Hear, hear!

**Senator Cordy:** David, you have done so much to help those with mental illness and your speech last night was very moving. Thank you for all that you are doing.

Honourable senators, let us work together to make things better for those Canadians who have poor mental health.

### THE HONOURABLE W. DAVID ANGUS

#### RECIPIENT OF 2012 CHAMPION OF MENTAL HEALTH AWARD

**Hon. David Tkachuk:** Honourable senators, I would also like to join Senator Cordy in congratulating Senator Angus. Each year the Canadian Alliance on Mental Illness and Mental Health recognizes exceptional Canadians who have made outstanding contributions to the field of mental health and to the awareness of mental illness in Canada over the past year.

This year, on Monday, May 7, they recognized our colleague Senator David Angus as one of their 2012 Champions of Mental Health, in recognition of his lifelong devotion to this cause.

In his letter of nomination Ron Collett, president of the McGill University Health Centre Foundation wrote:

As the parent of a child with mental illness, he has been both a caregiver and advocate for better client care, teaching and research.

As Chairman of the Board of McGill University Health Centre, he was instrumental in the expansion and advancement of Mental Health facilities, services and research at MUHC.

He has demonstrated his personal leadership by contributing over \$1 million to establish new, modern advanced psychiatric care facilities.

He has also established a major endowed fund at the Montreal General Hospital Foundation — the Senator David Angus Award for Research in Major Psychiatric Diseases.

The letter of nomination concludes:

Because of his continuing leadership, Mental Health in Canada has been greatly advanced.

Honourable senators, please join me in congratulating Senator Angus, as well as the four other award winners: TSN broadcaster Michael Landsberg; Scott Chisholm, founder of the Collateral Damage Project; psychiatric researcher and advocate, Dr. Trang Dao; and the community organization Cardinal Newman Peer Mentors of Stoney Creek, Ontario.

David, your work in promoting research and access to support is greatly appreciated, as is the hard work of the many other individuals and local organizations active in this important cause.

**Hon. Senators:** Hear, hear!

### NATIONAL HOSPICE PALLIATIVE CARE WEEK

**Hon. Catherine S. Callbeck:** Honourable senators, I am pleased to rise today in recognition of National Hospice Palliative Care Week. This campaign hopes to raise awareness about hospice palliative care and also provides an opportunity to recognize and celebrate the volunteers across the country.

• (1420)

Of the more than 259,000 Canadians who die each year, fewer than 30 per cent will receive high-quality hospice palliative end-of-life care. As the population ages, the number of Canadians dying each year will increase. By 2036, there will be more than 425,000 deaths a year. The need for quality palliative care will only increase.

Our former colleague, Senator Sharon Carstairs, cast a shining light on the issue of hospice palliative care. As we all know, she dedicated herself to studying the gaps and also the progress that has been made on palliative and end-of-life care in Canada.

Over the years, she released two special reports on palliative care, most recently *Raising the Bar* in June 2010. She remains active in this area with speaking engagements and as a member of the Canadian Hospice Palliative Care Champion's Council. I would like to commend her for her ongoing commitment to improving palliative and end-of-life care for Canadians.

In my own province, like in other provinces, the Hospice Palliative Care Association provides care and support to those living with or dying from a life-threatening illness and to their families. About 250 trained and certified volunteers provide thousands of hours of care and support each year to more than 400 Island families. These volunteers support the tireless work of health care professionals to offer quality end-of-life care. I would



like to commend these volunteers, and all those across the country, for their compassion, their care and their comfort to individuals and families living with a life-threatening illness.

Honourable senators, it has been said that palliative and end-of-life care is not about dying; it is about living well until the very end. Everyone should have the right to die with dignity and without pain, surrounded by loved ones in a place they want to be. As policy-makers, we need to ensure that our health care system offers programs and services so that Canadians can do just that.

### MENTAL HEALTH CARE

**Hon. Judith Seidman:** Honourable senators, on March 27 of this year, the Standing Senate Committee on Social Affairs, Science and Technology tabled its report on the progress in implementing the 2004 10-Year Plan to Strengthen Health Care in Canada, titled *Time for Transformative Change: A Review of the 2004 Health Accord*.

Over 10 weeks, we heard from more than 50 witnesses and received countless written submissions. Testimony during this study revealed a health care system that prioritizes treatment over prevention, inhibits collaboration, and consistently overlooks the link between physical and mental health.

Health professionals emphasized that mental health was often neglected or undervalued. Physicians from the primary care sector advocated for collaboration between psychiatrists and family health teams. Representatives of the home care sector urged the adoption of early mental health assessments and training for home care providers. Psychiatrists and psychologists cautioned against over prescribing psychotropic drugs to compensate for a fragmented mental health system.

Witnesses also agreed that mental health services specifically targeted towards children and youth have a significant impact. In fact, witnesses stressed that targeted prevention programs, intervention services and supports had the highest success rates and greatest return on investment in this population. Witnesses recognized the complexity of working with this young population, noting that professionals in health, social services and education sectors should work coherently to coordinate care.

Furthermore, the lives of children and youth cross many domains: family, school, friendship groups, sports and recreation, cultural events and faith communities. As we move forward, approaches to mental health promotion, prevention, intervention and research also need to cross these domains and sectors.

In the report, a clear recommendation recognizes the importance of the use of research and ongoing data collection to better inform policy and program development for children and youth.

Honourable senators, May 6 to 12 is Mental Health Week. Yesterday, May 7, was National Child and Youth Mental Health Day, an opportunity to raise awareness about mental health

promotion and illness prevention. First, we must rethink the definition of "health" in Canada. We can begin with the holistic view of health championed in this report that calls for transformative change in the way we deliver health care.

### GLOBAL MATERNAL AND CHILD HEALTH

**Hon. Mobina S. B. Jaffer:** Honourable senators, as many of us celebrate Mother's Day in Canada next weekend with our families, I rise today to speak of challenges mothers face in the developing world.

More than 350,000 women die annually from complications during pregnancy or childbirth, and 99 per cent of these women live in developing countries. Every year, more than 1 million children are left motherless. Children who have lost their mothers are up to 10 times more likely to die prematurely than those who have not.

In September 2000, Canada, along with 188 United Nations Member States, made a promise to come together and fight the extreme poverty that over 1 billion people in the world suffer from each and every day. By way of eight Millennium Development Goals, we as a country set targets and deadlines that would help fight hunger, reduce child mortality, combat diseases such as HIV/AIDS and malaria, and improve maternal health.

I have worked on this issue of maternal and childhood health for a number of years and have risen in this chamber on many occasions to share my experiences working with some of the world's most marginalized populations. A few weeks ago, when I returned to Uganda to continue my work on maternal health and malaria, I had the pleasure of visiting a maternal health clinic that was recently built in a rural area located outside of the capital city. While at the clinic, I had the opportunity to talk to several nurses who worked at the clinic. They shared with me stories about how this clinic has helped so many women living in the surrounding villages.

One nurse brought me to a young woman named Rebecca, who was now the proud mother of three children. Having given birth twice before, Rebecca was confident that she would be able to give birth with little difficulty. Unfortunately, she was mistaken; her baby was positioned in a way that made it difficult for it to be released through the birth canal. Luckily, Rebecca was able to get to the clinic in time, where a doctor performed an emergency Caesarean section.

The nurse went on to explain that had this happened last year, before the clinic was established, Rebecca would likely have suffered a fistula, which is a childbirth injury that leaves women incontinent, isolated and ashamed. Being able to access the most basic natal care changed Rebecca's and her children's lives. They still have a full-time mother.

Honourable senators, since the Millennium Development Goals were established in 2000, we, as a country, have made great strides in improving maternal and childhood health for those living in the developing world. This is just one example of how we can make a difference in the lives of women and children living in the developing world. However, much progress still needs to be made before the 2015 deadline.

On September 18, 2000, Canada signed the United Nations Millennium Declaration, which stated:

[English]

We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable . . .

Now we must stay true to this promise.

[Translation]

## ROUTINE PROCEEDINGS

### THE ESTIMATES, 2012-13

#### MAIN ESTIMATES—REPORTS ON PLANS AND PRIORITIES TABLED

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the Reports on Plans and Priorities, Main Estimates, 2012-13.

#### COMMISSIONER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

#### SPRING 2012 REPORT AND ADDENDUM CONTAINING ENVIRONMENTAL PETITIONS RECEIVED UNDER THE AUDITOR GENERAL ACT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the spring 2012 report of the Commissioner of the Environment and Sustainable Development of Canada, and an addendum containing copies of environmental petitions received between July 1, 2011 and December 31, 2011.

• (1430)

### CANADA-EUROPE PARLIAMENTARY ASSOCIATION

#### MEETING OF THE STANDING COMMITTEE OF PARLIAMENTARIANS OF THE ARCTIC REGION, FEBRUARY 14, 2012—REPORT TABLED

**Hon. Consiglio Di Nino:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary delegation of the Canada-Europe Parliamentary Association on the meeting of the Standing Committee of Parliamentarians of the Arctic Region, held in Stockholm, Sweden, on February 14, 2012.

[ Senator Jaffer ]

### ABORIGINAL PEOPLES

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REFER PAPERS AND EVIDENCE FROM PREVIOUS STUDY ON BILL S-11 DURING THIRD SESSION OF FORTIETH PARLIAMENT TO CURRENT STUDY ON BILL S-8

**Hon. Gerry St. Germain:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the papers and evidence received and taken and the work accomplished by the Standing Senate Committee on Aboriginal Peoples during its study of Bill S-11, An Act respecting the safety of drinking water on First Nation lands, in the Third session of the Fortieth Parliament, be referred to the Committee for its study on Bill S-8, An Act respecting the safety of drinking water on First Nation lands (Safe Drinking Water for First Nations Act).

### NATIONAL SECURITY AND DEFENCE

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REFER PAPERS AND EVIDENCE FROM STUDY ON BILL S-13 DURING THIRD SESSION OF FORTIETH PARLIAMENT TO CURRENT STUDY ON SUBJECT MATTER OF BILL C-38

**Hon. Pamela Wallin:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the papers and evidence received and taken and work accomplished by the Standing Senate Committee on National Security and Defence during its study of Bill S-13, An Act to implement the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America, during the Third Session of the Fortieth Parliament, be referred to the committee for the purposes of its study on those elements contained in Division 12 of Part 4 of the subject-matter of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, during the current session.

## QUESTION PERIOD

### FOREIGN AFFAIRS

#### SPAIN—DETENTION OF PHILIP HALLIDAY

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, my office gave notice yesterday to the leader's office with respect to this question, so I hope she is in a position to provide some information.



Philip Halliday, a former fisherman from Digby, Nova Scotia, has been languishing in a Spanish jail awaiting trial since December 2009. He was part of a crew delivering a ship to a new owner in Spain. He is adamant, and his family and neighbours believe him, that he was caught up in a drug smuggling operation of which he had no knowledge.

He is anxious to go to trial to clear his name and to return home to his family in Nova Scotia, but it has been more than two years and there is still no trial date. According to a decision last December, it will be another two years before his case will be tried. Throughout all that time, as I say, he is in a Spanish jail.

His health is deteriorating. Thanks, in no small part, to the efforts by my colleague in the other place, Geoff Regan, the member for Halifax West, Mr. Halliday finally received surgery last year for one medical problem, but in the worlds of his wife who finally saw him recently, he "looks awful. It's terrible . . . He's like an old, old man."

Honourable senators, his community of Digby has been strongly behind Mr. Halliday. There have been petitions and letter-writing campaigns, but they and the Hallidays feel abandoned by their government.

Two years after Mr. Halliday was sent to a Spanish jail, the leader's colleague, the Minister of State of Foreign Affairs, finally wrote to the Spanish Prime Minister in January of this year. Minister of State Ablonczy asked that on compassionate and humanitarian grounds and due to serious health conditions Mr. Halliday receive a timely trial.

I should have thought that the time had long passed for a timely trial, but my question for the Leader of the Government in the Senate is what answer her government has received from the Spanish government. If none has been received, what action is being taken on Mr. Halliday's behalf?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for advance notice of this question.

As he pointed out, this is very difficult for the Halliday family, going on as it has since December of 2009. All of us can truly appreciate the extreme difficulty this is creating for his family.

I can assure the honourable senator that the government is actively providing ongoing consular assistance and support to Mr. Halliday and his family. Minister Ablonczy has contacted the Spanish Minister of Foreign Affairs to advocate on Mr. Halliday's behalf, as the honourable senator suggested. Our ambassador in Spain is fully engaged with local authorities as well.

The government, of course, as the honourable senator would know having dealt with cases like this in the past when he was in government, cannot exempt Canadians from legal processes nor interfere with the judicial proceedings of other countries.

However, the government in the person of our ambassador and the minister and the consular affairs officials continues to press the Spanish government for a timely — although I acknowledge "timely" seems to be a bit of a worn-out word — and transparent trial for Mr. Halliday. Of course, we will continue to seek to ensure that his medical needs are being addressed.

In addition to the efforts of Geoff Regan in the other place, I also want to commend the efforts of Greg Kerr, the member of Parliament for West Nova, who has constantly brought his concerns and the concerns of the family to Minister Ablonczy directly. He has also contacted Spain's ambassador to Canada to request that the availability of time for a trial is addressed quickly and also to request that Mr. Halliday's medical conditions continue to be closely monitored.

In view of the honourable senator's notice to me and the response I received late yesterday, I am also asking on our behalf for further information, as it becomes available, from Minister of State Ablonczy.

**Senator Cowan:** I take it from the answer that there has not been a response to the letter. I understood the letter went to the Spanish Prime Minister, but the leader mentions the foreign minister. I am not sure which is correct, and perhaps it does not matter. I take it, however, that there has been no response to that letter which was written in January of this year.

We certainly would not want to interfere unduly in the legal affairs and proceedings of another country. As the leader points out, this is not asking the Canadian government to arrange for the release of someone or the short-circuiting of any legal process; it is simply that the process should apply. I think we would agree this is not a timely trial. I would urge the leader again to urge upon her colleagues, particularly Minister Ablonczy, that it is time for a follow-up letter if she has not received a reply to the first one.

The point is that this man simply must be brought to trial. He is facing charges that he denies, and that is what a trial is for: to determine whether or not his defence is valid. To have someone languishing for now two years, and late indications are it will be as much as four years before even coming to trial, seems completely inappropriate. I am sure the leader will urge further action on the part of her colleagues. I thank her for that.

**Senator LeBreton:** I actually am asking for further information as to whether the letter has been responded to and what the next actions of the minister are. I would be very happy to report to Senator Cowan as soon as she has reported back to me.

## INTERNATIONAL COOPERATION

### UNITED NATIONS MILLENNIUM DEVELOPMENT GOALS

**Hon. Mobina S. B. Jaffer:** Honourable senators, my question is to the Leader of the Government in the Senate. In 2001, the United Nations set out eight Millennium Development Goals. During the 2010 G8 and G20 summits, which Canada had the honour of hosting, we as a nation took a leadership role in championing maternal and childhood health.

Last week, while I was distributing malaria nets in a village in Uganda, I received further confirmation that by including malaria prevention programs in maternal health strategies we would be tackling three of these eight goals. With the 2015 deadline looming, I believe that we, as a country, have to put forward an honest effort into seeing that these goals are achieved.

• (1440)

What steps is Canada taking to ensure that the eight Millennium Development Goals set out by the United Nations are achieved by the 2015 deadline?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I put on the record last week, I believe, the government's work so far on the maternal and child health initiative. With respect to the honourable senator's specific question about the eight goals, I will have to take that as notice and provide a written response.

**Senator Jaffer:** Honourable senators, I have a supplementary question. Over the past few weeks, while I was in Uganda, I worked closely with a number of multilateral organizations, many of which influenced and helped develop the Millennium Development Goals I just mentioned. I observed with great admiration the great work these organizations do in the areas of health, human rights and humanitarian assistance.

How much money is Canada investing in these multilateral organizations to accomplish the Millennium Development Goals, and what funds are we giving to countries specifically to develop the Millennium Development Goals?

**Senator LeBreton:** I think I reported to honourable senators last week that we had invested \$1.1 billion in significant new resources for maternal and child health. I will also seek further clarification on how much has been expended, how much remains, and what the plans are for the future.

## FISHERIES AND OCEANS

### FISH HABITATS

**Hon. Elizabeth Hubley:** Honourable senators, my question is for the Leader of the Government in the Senate.

I am deeply concerned about the government's proposed changes to the Fisheries Act and its regulatory policies toward fish habitats.

Fish habitats are some of our most ecologically sensitive, natural environments and have been protected under the act for more than 35 years. Two weeks ago, the minister announced that he would like to see the Fisheries Act amended so that some bodies of water would no longer be subject to environmental regulation and, moreover, only fisheries deemed to be of commercial, cultural or Aboriginal value will be protected.

As all waterways are interconnected, the health of our fishery depends on the health of the entire ecosystem. For example, in my home province of Prince Edward Island, with certain weather conditions, fish kills may occur from agricultural pesticide runoff. Fish habitats are sensitive and vulnerable to the impacts of industrial development.

Can the leader assure us that the government will not sacrifice our natural environment and the long-term sustainability of sensitive fish habitats and ecosystems in the name of corporate profits?

[ Senator Jaffer ]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I do believe there is a lot of misinformation flying around about the intent of the changes and the consultations that Minister Ashfield is undertaking.

With regard to the Fisheries Act, in terms of fish habitat, we are focusing our efforts on our fish and fish habitat protection rules in Canada's fisheries. We are not focusing on farmers or fields and, of course, that is part of the problem. Fields and ditches in the middle of the prairies are sometimes affected by sections of the old Fisheries Act.

For too long we have heard many stories — and I am sure the honourable senator has heard them as well — of the Department of Fisheries and Oceans protecting ditches, man-made reservoirs and flood plains when they should be protecting rivers, lakes and oceans that are actually home to the fishery and our fish.

When Minister Ashfield undertook to have a look at this, the President of the Federation of Canadian Municipalities applauded his initiative, saying:

These reforms will make it easier for governments to set clear, sensible priorities for protecting fish habitats. Currently the Fisheries Act applies the same protections to rivers and streams as municipal drains and farmers' irrigation canals. That doesn't make sense.

We agree with the Federation of Canadian Municipalities.

I wish to assure honourable senators that the Minister of Fisheries, Minister Ashfield, is very focused on protecting our fish and fish habitat but, at the same time, clearing away some of the regulations under the act that have absolutely nothing to do with fish or the fishery.

## FINANCE

### BUDGET IMPLEMENTATION BILL— COMMITTEE SCHEDULE

**Hon. Elizabeth Hubley:** Honourable senators, I would point out that all waterways are connected, whether they are small ditches or small streams. They will eventually end up within our waterways and within the water systems.

The trouble I am having with this is that these proposed changes that we are discussing are buried in the 420-page omnibus budget bill, Bill C-38, along with many other changes to environmental protection legislation. Why is the government ramming through these changes without adequate time for proper debate and discussion?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, the budget bill is, of course, a very large bill. It is still over in the other place. The opposition, for whatever reason, when the budget was introduced at the end of March, chose not to debate it for too long a period of time.

Having said that, with respect to the Budget Implementation Act, as the Minister of Finance said yesterday in the other place, a large budget document begets a large budget implementation act. There will be ample time in the House of Commons to go over the various aspects of the bill.



Of course, as honourable senators know, here in the Senate the budget bill will be part of a pre-study in several committees of the Senate, including the Energy, the Environment and Natural Resources Committee. I am certain that all senators on those committees and witnesses who wish to appear will have that opportunity when the various parts of the Budget Implementation Act are before the relevant committees here in the Senate. It will also add to the time given to the budget over in the House of Commons. We will have ample time here in the Senate to ensure that the actions of the government, first in the budget and second in the Budget Implementation Act, actually do complement each other.

**Senator Hubley:** Could the honourable leader confirm for us if time allocation has been imposed on the discussions?

**Senator Mercer:** Exactly. So much for open debate.

**Senator LeBreton:** I would say that if honourable senators, through the pre-study process, take this seriously and use the opportunity on the various committees, time allocation would not be necessary if everyone does their work. Having said that, however, we cannot rule out any option.

## ENVIRONMENT

### CLIMATE CHANGE STRATEGY

**Hon. Grant Mitchell:** Honourable senators, it has not been a good day for the government's record on climate change initiatives. The Environment Commissioner reported today and reminded us that the government got out of Kyoto because they said the costs would be prohibitively high. Then he posited that one would think, if that were the case, the government would probably want to price the alternative they chose, and then he observed:

... Environment Canada has not conducted a comprehensive analysis to estimate the combined cost of the sector-by-sector approach to regulating GHG emissions.

They have runaway G20 costs and runaway record deficits. They cannot price the F-35 to save themselves, or they have two or three different prices. Now they cannot price their regulatory approach to greenhouse gas emission reduction.

Is anyone counting anything over there? Are there auditors or accountants left after all these layoffs?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I guess the question is, do we have any accountants left after all these layoffs. Those layoffs have not happened. Of course, there are many accountants left.

**Senator Mitchell:** Honourable senators, if the government has not actually priced their regulatory approach to greenhouse gas emissions, how does the government know that approach will be

more cost effective than a market-based approach — a carbon levy, a carbon tax, or a cap and trade — that even industry is begging to have brought in to get some certainty and focus on the future, so plans can be made for what needs to be done?

• (1450)

**Senator LeBreton:** First of all, honourable senators, the government has been very clear, up front and transparent about our intentions with regard to Kyoto. That is already a given.

With regard to the costing, as a government, we are seeking to maximize greenhouse gas reductions while minimizing the cost of compliance on Canadians and on Canadian industry. For example, our passenger vehicle regulations reduce real greenhouse gas emissions while saving Canadians money through fuel efficiency.

The commissioner recognized in his report that our government is currently negotiating with the provinces and industry to develop key sector-by-sector regulations. These regulations are not being created here in Ottawa in a vacuum. Costing is one of the elements of consultation with the provinces and with industry.

However, honourable senators, we should point out, and I want to be very clear about this, that this is the first government in Canada to create and follow through on a greenhouse gas reduction plan. It is the first government to follow through. The previous government, of course, as we all know, admitted that it did not even have a plan to reduce greenhouse gas emissions, let alone any idea of the cost of it.

**Senator Mitchell:** If they did not have a plan, what was it that the government cancelled when it took over? It cancelled every last single program that was actually going to get two thirds of the Kyoto obligation.

Of course, we cannot really believe what the government says. It can tell us that it is doing all this stuff, but then it told us that the F-35s would cost \$14.7 billion. Nothing it says can be believed.

Let me go on to something we can believe. We can believe the Environment Commissioner when he says there is no way the government will meet its 2020 reduction of 17 per cent of 2005 levels. There is no way the government will do it.

Is the government not worried about accounting for and costing exactly what it is trying to do because it does not really intend to do it, and would it care, either, if it did not?

**Senator LeBreton:** First, the honourable senator's government did not have a plan. It signed on to a plan, and the honourable senator's own people admitted almost immediately that it was optics, that their government had no intention of following through on Kyoto.

With regard to reaching targets, the figures being quoted are from the 2009 greenhouse gas emissions report based on earlier sets of data. The report did not take into account our regulatory plans. It could not have because, of course, they were not issued yet — for example, coal-fired electricity generation or heavy-duty vehicle regulations or our action on short-lived climate producers. All of those things we brought into place with regard to vehicles

and coal-fired electricity have not been taken into account in the report because it was 2009 data. The latest greenhouse gas emission reports that we presented in April clearly state that Canada's overall greenhouse gas emissions have decreased by 6.5 per cent from the 2005 levels and, together with the provinces, we are already a quarter of the way to reaching our 2020 target.

The honourable senator is basing his question on old data. We have done many things since then. I would suggest that he have a little faith because we are the only government that has ever addressed this issue.

**Senator Mitchell:** The one thing this government has done to reduce greenhouse gases is to preside over a massive recession that hit this country in 2008. That is why it reduced greenhouse gases, if at all. In fact, it is not an absolute reduction; it is a slight intensity reduction. Let us not take credit here, I would suggest, for a recession doing the government's job when it really has not done anything at all.

Back to the point of not accounting for the costs, much has been made by this government about the need to harmonize with the U.S. situation with respect to greenhouse gas emission reduction policy, but the Environment Commissioner points out that the government has done nothing to cost what that harmonization might amount to.

How is it that this government is proceeding down that road without any accounting on the cost of its regulations and the cost of harmonizing with the U.S., even if it is the best alternative?

**Senator LeBreton:** First, there was a worldwide economic downturn. In case the honourable senator did not notice, Canada weathered that economic storm extremely well. We created almost 700,000 net new jobs.

To say that the economic downturn was the reason for greenhouse gas emission reduction is rather disingenuous on the honourable senator's part and, of course, not true.

On the matter of costing, we do have a clear sector-by-sector plan on reducing greenhouse gas emissions, and we are working on this with our provincial and territorial partners, as well as with industry. Of course, we live on the northern half of the North American continent. Ninety per cent of our population lives within 100 miles of the United States border. It would make no sense to go forward with any plan to tackle greenhouse gas emission problems or any environmental problem without being in full harmonization with our neighbours to the South, who also happen to be our largest trading partner.

As a government, we are committed to meeting the targets that we agreed to in Copenhagen while also ensuring that the Canadian economy continues to grow and prosper.

**Senator Mitchell:** Again, we cannot believe a thing the honourable leader's government says. How would it know that it makes sense to harmonize with the U.S., which is our biggest trading partner, if it has never priced the approach? It has not priced the regulations; it has not priced what harmonization

would involve. How would the government know it would make sense to do that? Is it just making this up as it goes along, like it did with the F-35s or with the G8 or with the deficit or with its management of the recession?

**Senator LeBreton:** I have already answered the honourable senator's question on costing. I do try to answer Senator Mitchell's questions, but every time I do, he gets up and accuses me of being a liar, which I do not think is very appropriate.

Of course, this is what the government faces as we bring in our budgets and implement our various programs. If the opposition, particularly the third party in the House of Commons, does not like it, they accuse us of lying.

**Senator Mitchell:** I have not accused my honourable friend of being a liar. The only way I would assume she is not telling the truth is if what she read from those cards that are written for her is not telling the truth. I guess the PMO, though, were the ones that misled us about the F-35s. If they are writing her cards, I am assuming — I am just saying we cannot believe a thing this government says.

I know you guys do not like it, but it is true.

The Environment Commissioner says that the government should be more transparent about revealing costs and investments related to its climate change policies. Now that it has laid off the National Round Table on the Environment and the Economy and 1,700 people, I think, from the Department of the Environment, who exactly will do the assessment and the accounting, compile the data, and report in a transparent and accountable way?

**Senator LeBreton:** Honourable senators, I have answered this question before. Officials of the Department of the Environment and many agencies, including private sector agencies, work very closely with the government. We are the only government that has an environmental record. I know Senator Mitchell hates to admit that, but that happens to be a fact. It is not untrue.

The information that I provide here to honourable senators on behalf of the government is factual. I know Senator Mitchell does not want to agree with it. I know he disagrees with it, but he actually thought, perhaps, at one time he was going to be the premier of Alberta, and look what happened to that.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table the response to an oral question raised by Senator Cordy on December 7, 2011, concerning human rights in Nigeria.

## FOREIGN AFFAIRS

### HUMAN RIGHTS IN NIGERIA

*(Response to question raised by Hon. Jane Cordy on December 7, 2011)*

**Will the Government of Canada cut off assistance to Nigeria to express Canada's support for dignity for all individuals?**



CIDA manages Canada's assistance to Nigeria. In 2009-2010, total CIDA assistance to Nigeria amounted to \$60 million. CIDA does not provide assistance directly to the Nigerian government. Instead, assistance for various projects is provided to multilateral organizations, including UN bodies, and Canadian non-governmental organizations, which implement projects on the ground.

The Government of Canada, through the Muskoka Initiative, supports the Nigerian Government's commitment to improving maternal, newborn and child health. Canada's efforts in Nigeria are focused on strengthening primary health care delivery at the community level and preventing and treating the most prevalent illnesses and diseases that cause maternal and child mortality. To that effect, CIDA is planning to invest \$36 million over the 2010-2015 period to improve maternal, newborn and child health. High maternal and infant mortality rates are major impediments to the development of the country. In Nigeria, the maternal mortality rate is 840 deaths per 100,000 live births (global MDG target is 75/100,000). The country loses about one million under-five children annually, which is about 10 percent of the global child mortality figure.

The bilateral program focuses on Children & Youth and Sustainable Economic Growth and targets most of its investments in two States: Bauchi and Cross River. CIDA also supports a multi-donor funded initiative managed by the United Nations Development Program (UNDP) to improve key electoral institutions, foster stronger democratic accountability and build the foundation for strengthened democratic governance.

The Government of Canada does not believe that cutting development assistance to Nigeria is an effective or appropriate response to the ongoing debate in Nigeria. Canada is engaged in Nigeria in recognition of the major development issues it faces. Suspending development assistance to Nigeria would reduce availability of and access to health services currently served by CIDA-funded program. CIDA will continue to advocate for equal treatment for all people during its interactions with the Government of Nigeria.

#### **What forceful terms can Canada use to pressure Nigeria to not pass the legislation?**

The High Commission of Canada in Abuja will continue to engage with key Nigerian stakeholders to reinforce messages that this bill is in conflict with existing international obligations and domestic law on human rights.

Canadian officials also interact with Nigerian officials in multilateral fora, where the issue may be raised. Given the recent appointment of Senator Segal as the Special Envoy for Commonwealth Renewal and the election of Canada to the Commonwealth Ministerial Action Group (CMAG), the Commonwealth will be an important venue to discuss the proposed legislation with Nigerian officials.

The Minister of Foreign Affairs gave a speech at the Royal Commonwealth Society on January 23, 2012, which specifically mentioned the protection for homosexuals in

Commonwealth countries including Nigeria and further reinforced Canada's position on protecting human rights for all people.

#### **Will Canada follow the lead of Prime Minister Cameron of the UK?**

British Prime Minister David Cameron indicated at the Commonwealth summit in October 2011 that the UK could withhold aid from governments that criminalize homosexuality. This strategy would not be applicable in the case of Nigeria as Canada does not provide aid directly to the Nigerian government.

#### **Call for Proposals:**

<http://www.acdi-cida.gc.ca/acdi-cida/ACDI-CIDA.nsf/eng/ANN-111145457-Q7E>

#### **Projects:**

<http://www.acdi-cida.gc.ca/CIDAWEB/cpo.nsf/vWebProjSearchEn/A6581A7BE26E22FF8525785D00371917>

<http://www.acdi-cida.gc.ca/CIDAWEB/cpo.nsf/vWebCSAZEn/53372ECCCE0BD808525786200371750>

<http://www.acdi-cida.gc.ca/CIDAWEB/cpo.nsf/vWebCSAZEn/E7C8E6A0C8C2F77E8525783F003CA1FA>

#### **Press Releases:**

<http://pm.gc.ca/eng/media.asp?category=1&featureId=6&pageId=26&id=3479>

<http://www.international.gc.ca/media/aff/news-communiques/2012/01/25a.aspx?lang=eng&view=d>

### **ANSWERS TO ORDER PAPER QUESTIONS TABLED**

#### **INTERNATIONAL TRADE—TRADE NEGOTIATION**

**Hon. Claude Carignan (Deputy Leader of the Government)** tabled the answer to Question No. 18 on the Order Paper by Senator Downe.

#### **ENVIRONMENT—GREENHOUSE GAS EMISSIONS**

**Hon. Claude Carignan (Deputy Leader of the Government)** tabled the answer to Question No. 23 on the Order Paper by Senator Mitchell.

• (1500)

[English]

## ORDERS OF THE DAY

### CHARTER OF RIGHTS AND FREEDOMS

#### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

**Hon. Jim Munson:** Honourable senators, first, I would like to say that I will adjourn this inquiry in the name of Senator Andreychuk, out of courtesy.

Honourable senators, I stand today in support of Senator Cowan's inquiry to draw attention to the thirtieth anniversary of the Charter of Rights and Freedoms. Like millions of Canadians, I am tremendously proud of the Charter as a reflection of our national identity. This is an excellent inquiry.

Senator Cowan and other honourable senators who have spoken so eloquently about the Charter have inspired me to give fresh thought to what is great about this country.

I am pleased to keep the celebration going with my own reflections on the rights and freedoms enshrined within our Constitution, in particular, freedom of the press.

**Senator Mercer:** Hear, hear!

**Senator Munson:** As a reporter stationed in China in the 1980s and early 1990s, I encountered situations that could never take place here. Since I was the president of the Foreign Correspondents' Club, which the Chinese referred to as an "outlawed" organization, the foreign ministry periodically called me in on the carpet for my own stories, as well as those produced by my American colleagues.

Many of my stories were about political dissidence, but they were hardly a threat to the Chinese government. Chinese citizens never actually saw any of these stories, even though they were accounts of events and issues impacting them directly. I was allowed to send my work outside Chinese borders, but no one in China ever saw it. It was like straddling the realities of two worlds. In one, freedom of the press was a value; in the other, free expression could land you in prison for a long time.

During those awful, tense days leading up to the massacre of students in Tiananmen Square in 1989, the Chinese government declared martial law. Under force, China Central Television reverted to being the propaganda arm of the government. The *People's Daily* and other papers that hinted at any sympathy for students' causes were effectively gagged. To ensure that the world

would bear witness to what was happening, foreign correspondents had to sneak stories out of China with tourists or business people travelling to Hong Kong and Tokyo.

Freedom of the press did not exist in China then, nor does it exist in China today.

In Canada we take our freedom of the press for granted. We should not. Our own history tells us it has been a difficult struggle, with lives ruined along the way. Freedom of the press is a necessary instrument for government accountability and social change. It matters today; it has mattered throughout Canadian history, even before Confederation.

In 1835, Joseph Howe published a letter in *The Nova Scotian* accusing Halifax politicians and police of pocketing public money. Nova Scotian politicians were outraged and charged him with libel. In those days, publishing a letter could lead to a serious criminal charge; yet truth was not a defence.

There are times when the absence of justice can bring out the advocate in a person. This was one of those times. For more than six hours, Howe stood before a jury, citing case after case of government corruption, all building toward a plea for freedom of the press. His concluding request to jurors was this: "To leave an unshackled press as a legacy to our children."

Though Joseph Howe was found guilty, the jury voted shortly thereafter to acquit him.

**An Hon. Senator:** Hear, hear.

**Senator Munson:** In the 1970s, with my career as a reporter just beginning, I was alerted to the examples set by journalists I admired. Though she lived and wrote her outspoken editorials for British Columbia's *Bridge River Lillooet News* before I was even born, Ma Murray was one such journalist: rough, forthright and honest in her editorials. She empowered readers with information on politics and other issues of the day.

Bruce Hutchison, the former editor of the *Victoria Times*, was another journalist I have long admired. In 1960, he testified before a royal commission on the vital role of the periodical press in strengthening our national identity. He argued that by offering balanced, detailed coverage of national issues, periodicals played a crucial role in preventing this country from being overwhelmed by U.S. pressures. He said:

The Canadian people are not getting softer but if anything harder in their distinct identity. The best proof of this fact is the present general state of alarm about the nation's future — an alarm which I consider the most healthy sign in Canada today.

Social justice, individual and civil liberties, communities and civic engagement — these are among the *Toronto Star's* long-time guiding principles. It is fitting that the likes of the late George Bain and my good friend, the late Jim Travers, were once columnists and editors there. They too are, for me, iconic defenders of press freedom.

In undemocratic, corrupt countries around the world, journalists are killed and made to suffer for seeking and exposing truths about their leaders and governments. Freedom of the press is recognized



by all sides as the precursor to democracy. To the rulers of these countries, it is a threat to the status quo. For citizens who are poor and lacking a voice in how their countries are run, it is an aspiration.

In Ethiopia, two Swedish journalists were recently sentenced to 11 years in jail for allegedly entering the country and supporting terrorism. According to Rona Peligal, the deputy director of Human Rights Watch in Africa, the supporting terrorism clause in the country's anti-terrorism law was deliberately worded so as to suppress the legitimate work of the media.

PEN International has offices throughout the world that celebrate writers and journalists and promote freedom of expression. PEN Mexico recently held PEN Protesta! to bring together writers from all corners of the world, to lift their voices against violence and its threat to freedom and the country's democracy. Jennifer Clement, PEN Mexico's president, has described the dehumanizing effects of censorship, punishment and persecution on Mexican citizens: "If out of fear we no longer publish the news, we lose not only our democracy and freedom, but our history."

• (1510)

Honourable senators, did any of you notice that on the very day Senator Cowan launched his inquiry on the Charter of Rights and Freedoms, Senator Fraser stood, as she annually does, to bear witness to the journalists and media workers who died last year because they were journalists? There were more than 50 journalists in 2011. In Senator Fraser's words, "Every one of them died in the service of bringing the truth to the rest of us."

Last month, Ryerson University in Toronto hosted a conference called "Press Freedom in Canada." Journalists, lawyers, scholars, students and members of the public assembled to assess the state of freedom in the press. The consensus was that it is in pretty bad shape, reduced by a mix of factors. In a *Toronto Star* editorial entitled "Canadian Charter of Rights: What is the status of press freedom in Canada?," Kathy English warned journalists and Canadians in general to resist being smug and taking for granted this fundamental freedom. She said:

In Canada, judges still impose too many publication bans that stop journalists from reporting on public court proceedings; bureaucrats routinely block requests for public information; control-mad governments shut down access and politicians refuse to speak to journalists, who seek to hold them to account on the public's behalf.

Just a few days ago — and I hope they do not get too upset on the other side — the Harper government won the Canadian Association of Journalists' Code of Silence Award for keeping facts on files out of public hands, avoiding questions at media events, and restricting public and media access to contentious information.

**Some Hon. Senators:** Shame!

**Senator Munson:** Bans, restrictions and secrecy hold a lot of responsibility for the weak state of press freedom, but there are also a number of other factors to blame. The situation is made worse by profit-driven changes in the media and communications

industry; media empires squeezing out smaller, alternative outlets; fewer and fewer journalists to cover more and more information; the eclipse of objective coverage by opinion pieces and social media content. Exacerbating the situation still more are the journalists themselves. They are simply not trying hard enough and, as the *Toronto Star*'s Michael Cooke observes, "are far too knee-bending to political and judicial elites . . ."

Answering a challenge to conference-goers to explain why freedom of the press matters, the University of King's College Professor David Swick wrote an editorial in the *Halifax's Chronicle-Herald* saying:

You care about press freedom, because you care about many things. Food, animals, education, crime, the Internet, water, war: Important decisions on all of these things are being made by a government (or corporation, or NGO) near you. If that government can keep you in the dark, and do whatever it likes, it might.

Deeper in his editorial, Mr. Swick makes a particularly compelling remark:

. . . consider that the obvious is often easy to ignore.

Ignoring the obvious — that is how I would explain the failure of many in the media to take to task a government that decides it would be inappropriate to celebrate the thirtieth anniversary of our Charter of Rights and Freedoms. That is also how I would explain the lack of public debate and discussion around the decision and the reasons for it. A celebration would be insensitive to the concerns of people in Quebec: This is what our Prime Minister tells us. Are you kidding me?

With CROP poll results from 2011 showing overwhelming support for the Charter across the country, including Quebec, this is what our Prime Minister tells us. Not to mention that the government puts out one of the smallest, most uninteresting news releases I have ever seen; almost as long as the lead paragraph, the release title reads:

Statement by the Honourable James Moore, Minister of Canadian Heritage and Official Languages, and the Honourable Bob Nicholson, Minister of Justice and Attorney General of Canada, on the 30th Anniversary of the Proclamation of the Constitution Act of 1892.

All those words, and the title does not even refer to the Charter.

A meaningless news release — that was it; nothing more. A Charter that is viewed as a beacon of rights around the world; a Charter that is worth more than a one-day news release; a Charter that no government can ever, ever ignore. You cannot erase history.

**Some Hon. Senators:** Hear, hear!

**Senator Munson:** In a piece published in March by the *Toronto Star*, Irwin Cotler describes the Charter as "one of the most important advances in the promotion and protection of human rights both domestically and abroad."

In Canada, this is a widely shared belief, and it is a source of pride and inspiration for millions of people around the world. Leaders of democratic countries and rights advocates from all corners of the world also share this admiration and respect for our Charter.

In the universal context of the Charter's great influence on human rights, the only voices I have heard speaking disparagingly about it come from within our government. It shows flagrant disregard for the interests of the majority of Canadians. It is an absurdity — typical of our government's leadership approach. It has rendered our society baffled and apathetic and has immobilized our journalists, leaving them at loose ends over just what freedom of the press actually means. Not so long ago there was one person who knew what freedom of the press meant.

An experienced reporter, editor and politician, Grattan O'Leary was clear-sighted in his assessment of why press freedom matters. This is the same Conservative senator, Grattan O'Leary, who was appointed to the Senate in 1962 by our Bill of Rights Prime Minister, John Diefenbaker. O'Leary's words, taken from a speech he delivered in 1937, provide timely and much-needed wisdom to us now. I met this man in the middle 1970s. I admired him so much. Here is what he said:

There are newspaper publishers and editors in this country, apparently, who think that the freedom of the press was won for the sake of the press. Well, it wasn't. The freedom of the press was won for the sake of the people, and if the newspapers of this country are not prepared now to put aside party considerations and fight for that greater thing, the freedom of the individual, freedom for the ordinary man, then the day will come when the ordinary man will not fight for the freedom of the press.

Grattan O'Leary in 1937 — words that are even more relevant today.

**Some Hon. Senators:** Hear, hear!

**Senator Munson:** In all times and in all circumstances, the public has a right to know — to know about the workings of their government, about issues and events in their country, about their world. No law, no barrier and no lie can keep the citizens of Canada from this right.

I began this speech talking about China and the lack of press freedom when I was there in the 1980s and early 1990s and its continued absence today. I think a lot about Tiananmen Square, the sacrifice of young people who hungered for individual expression. Running into the square with my camera crew, I will never forget the voices of one couple pleading to me, "Please tell the world what is happening. We want our voices heard." It was a mad scene of injustice, and I was but one of many Western journalists who witnessed it.

I had a voice then, as I have a voice now. Seven years before Tiananmen I also witnessed that historic day on Parliament Hill, April 17, 1982, the repatriation of our Constitution and the proclamation of our Charter of Rights and Freedoms, and that includes freedom of the press.

I have said it before and I will say it again: Freedom of the press is a necessary instrument to keep governments accountable, society informed and freedoms in the hands of the ordinary men and women in this country.

Long live the Charter! *Vive le Canada!*

**The Hon. the Speaker pro tempore:** Honourable Senator Munson, will you accept a question from Honourable Senator Brown?

**Senator Munson:** I believe in free speech; yes.

**Hon. Bert Brown:** I thank Senator Munson for the discussion about the Charter and the freedoms that he so eloquently espoused.

I wonder if the seventeenth amendment of the American Constitution, adopted on May 31, 1913, was somewhat like the freedom that the people of Canada might use — the same freedoms to allow votes to bring more senators to this chamber. Three more were elected a week ago in Alberta.

It is interesting that our two countries are almost exactly one century apart in establishing election for senators. Oregon was the first state to hold illegal and unconstitutional elections for the people to vote for their senators. Alberta was the first province to call for elections in Canada. It appears to be a coincidence or otherwise, the same kind of freedom, the right to vote.

Would the honourable senator agree with these kinds of freedoms that may be used in Canada?

• (1520)

**The Hon. the Speaker pro tempore:** Honourable Senator Munson, before you begin, the table has just advised me that your 15 minutes of speaking time has expired. Are you prepared to ask the chamber for more time?

**Senator Munson:** Yes.

**The Hon. the Speaker pro tempore:** Is more time granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Munson:** The first thing I believe in, honourable senators, is our Constitution. Governments can change and constitutions can evolve. The example of the United States is an interesting one, but I would rather focus on the idea that no government should go through the back door to try to change what it cannot do through the front door.

What is wrong with talking to the people? What is wrong with referring it to the Supreme Court of Canada? What is wrong with explaining it and talking to the provinces to try to get their agreement? We already have the Quebec court being informed by the Quebec government that it is going to challenge what is happening here.



Why can this government not embrace Canadians in this debate as opposed to doing back door politics by holding elections where no other party is really involved?

**Senator Brown:** I can assure the Honourable Senator Munson that the government is talking to the people about Senate elections.

Personally, I have been involved for the last 20 years with that issue. I assure the honourable senator that we are going through the front door. The front door to the Constitution in this country is to have seven provinces out of ten representing 50 per cent of the population to agree to a stand-alone constitutional amendment. We are very close to that now.

**Senator Munson:** Good for you.

I was reading a newspaper article which stated that when Senator Brown retires next year, his will be big shoes to fill. I respect him for what he stands for. That is why we are having this debate in this chamber.

I happen to believe — and this is based on a bit of history — that there was a time in this country when prime ministers, including Brian Mulroney, Joe Clark, Pierre Trudeau, Jean Chrétien and Paul Martin, actually sat down publicly —

**Senator Mercer:** No!

**Senator Munson:** — with first ministers to discuss and debate this issue.

**Senator Mercer:** Do you have any pictures of that?

**Senator Munson:** I think that this is something in our history that we should pay attention to, when we can have those kinds of discussions, then and only then. This is not about one government. This is not about one prime minister. This is about Canada.

**Some Hon. Senators:** Hear, hear!

**Senator Brown:** I can assure the Honourable Senator Munson that this conversation is going on with the House of Commons right now and will continue until it comes to this chamber.

I wish to remind the honourable senator about one thing with respect to the Constitution of this country: When it comes to a change in the Senate, it has a suspensive veto of only 180 days. It does not have any impact on the Senate. After that, it goes through. He can check on that in the Constitution, if he wants.

**Senator Munson:** I think I will do the same thing that happens in the House of Commons in terms of the answer to that question. I will do the same thing that ministers do in the House of Commons. I will not answer the question. I will just talk about what I want to talk about, which is Canada and how we can move forward as a nation, how we can take a look at ourselves as a nation, and how we can talk to each other as a nation.

I want to emphasize again that April 17, 1982, was an incredibly historic day in this country and your government did nothing — absolutely nothing — to celebrate that day, where millions of people around the world and millions of Canadians respect —

**Senator Mercer:** Shame on them.

**Senator Munson:** Our rule of law is being used because of that Charter of Rights and Freedoms, and that is what Senator Brown should pay attention to.

**Some Hon. Senators:** Hear, hear!

(On motion of Senator Munson, for Senator Andreychuk, debate adjourned.)

## THE SENATE

### MOTION TO URGE GOVERNMENT TO MAKE SPORTING FACILITIES AVAILABLE ONE DAY ANNUALLY AT A REDUCED OR COMPLIMENTARY RATE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Raine, seconded by the Honourable Senator Wallin:

That the Senate of Canada urge the Government of Canada to encourage local governments from coast to coast to coast to collaborate in choosing one day annually to make their health, recreational sports, and fitness facilities available to citizens at a reduced or complimentary rate, with the goals of promoting the use of those facilities and improving the overall health and well-being of Canadians for the reasons that:

- (a) although Canada's mountains, oceans, lakes, forests, and parks offer abundant opportunities for physical activities outdoors, an equally effective alternative opportunity to take part in physical activities is offered by indoor health, recreational sports, and fitness facilities;
- (b) despite its capacity to be a healthy and fit nation, Canada is experiencing a decline in participation rates in physical activities, with this decline having a direct consequence to health and fitness;
- (c) local governments operate many public facilities that promote health and fitness, and those facilities could be better utilized by their citizenry;
- (d) there is a growing concern in Canada over the rise in chronic diseases, which are attributable, in part, to inactivity and in turn can cause other impediments to achieving and maintaining a healthy lifestyle;
- (e) health and fitness should be promoted and encouraged by all levels of government, to Canadians of all ages and abilities; and

- (f) we aspire to increase participation by Canadians in activities that promote health, recreational sports, and fitness.

**Hon. Daniel Lang:** Honourable senators, I would like to add my voice to the motion that has been presented to us by our colleague, Senator Nancy Greene Raine.

As honourable senators know, it calls on the Government of Canada to encourage local governments from coast to coast to collaborate in choosing one day annually to make their health and recreational sports and fitness facilities available to their citizens at a reduced or complimentary rate.

Honourable senators, I come from a part of the country where it takes me 12 hours to get home, door-to-door, when I leave from this place. I want to say that I am lucky and fortunate to live in a place like Yukon. We are surrounded by natural areas that allow us to go jogging, hiking and cycling. We have all the winter sports that one could want to have on any given day, whether it be cross-country skiing, downhill skiing, snowmobiling or other activities.

Honourable senators, we also are fortunate that our capital city of Whitehorse hosted the Canada Winter Games a number of years ago. We probably have one of the nicest, if not the nicest, world-class fitness centres in Canada. It took a lot of planning, effort, time and money. When it was in the process of being built, a good part of our community was quite concerned about the cost of running this facility once the Canada Winter Games concluded. For those that were not there, I want to say that the Canada Winter Games were a great success for Canada and a great success for us.

Since that time, we have used our complex. I am very pleased to say to all senators here that we can afford this complex. It is used day and night, seven days a week, 365 days a year. The Government of Canada, in respect to its promotion of the Canada Games, provided us with a wonderful legacy.

Our capital city, through that complex, meets some of the objectives of the honourable senator's motion. Throughout the year, days are set aside to attract new people to use the swimming pool of the facility and the arena at no cost. Staggered over the course of the year, we try to increase our population's utilization of the facility.

It is not just for the facility but also for the other aspects of this motion. The principle of the motion is that we believe in a healthier community. How do we get to be a healthier community? We get people out. The first step toward being part of a community is recreation. In our part of the world, we are making steps forward. It is not every day that there is an increase in the number of people utilizing these facilities, but over the course of a year, one can look back and say, "Look at how many new people came in to use that walking track."

To give honourable senators an example of the magnitude of this facility, there is a walking track above the open part of the arena and the gym. It is frequented, not only by runners in the winter, but also by senior citizens who come in to do their fitness activities. Then they sit down and become part of the community

by visiting. It has turned into a gathering place for all in our community — young and old — and has been a good step forward.

• (1530)

We have to count our many blessings in this country. In nearly all of the smaller communities in the area that I represent, we have a recreation facility, some bigger than others because of the size of the community. They are well used and we are promoting their use. That is not to say that we cannot promote the use of those facilities by those who are not using them, which is the principle of the motion we are debating.

A couple of years ago, Senator Nancy Greene Raine brought forward an inquiry on how the Olympics affected health and fitness in Canada. We spoke at that time about the concern on both sides of the chamber about obesity becoming so prevalent in our country. The more we speak in our legislatures about the need for fitness, the more the message will get out to those who need help. They may think that if society wants to help them, then perhaps they should take the first steps to help themselves and use the walking trails.

Honourable senators, a motion like this is symbolic and it has an effect. It is important for the federal government and the provinces to encourage our young people to take part. We have a wonderful country and I think that some young people do not realize how truly fortunate they are compared to people in other parts of the world.

I want to thank Senator Nancy Greene Raine for bringing this motion forward. It is important that other senators speak to the motion. We want the people of our country to be healthy.

**Hon. Jim Munson:** Would the honourable senator accept a question?

**Senator Lang:** Yes.

**Senator Munson:** Honourable senators, I will speak in support of this motion next week, because I think it is extremely important. At one time we had the ParticipACTION initiative in this country. I think I still have a T-shirt with a pink running shoe on it somewhere. It galvanized the nation.

Does the honourable senator think that we could extend this idea to more than just one day in June and that we could have it happen in every municipality in the country in the hopes that it will catch fire?

**Senator Lang:** The honourable senator raises a good point. The reality is, however, as we all know, that these facilities cost money to run and the communities have to pay for them in one way or another.

I, too, remember ParticipACTION and I felt it was a successful program. Maybe we should be looking at such a program in conjunction with the provinces. I can think of other areas we should be looking at, especially in remote and small communities. Perhaps, in conjunction with the provinces, or the provinces on



their own, we could bring physical fitness equipment into classrooms so that the kids can get some exercise prior to class. It has been proven that those types of initiatives work, not only for physical fitness but also for learning.

There is a multitude of things that we can and should be doing. The other day I read about an initiative in Guelph, which is becoming the running centre of Canada and perhaps North America. A running coach who has been there for 10 years has made this a successful program for the community. One of his first instructions to his running team was that when they are running through the town and run by someone they should say "hi." Over a period of time, the community was galvanized by those friendly runners and wanted to join them.

When one goes for a run on some of our beautiful trails, as I am sure the honourable senator does, many people are withdrawn. When you say "hi," they look at you as though you might be planning to assault them. We should try to change that attitude, because when you are having fun and you feel good about yourself, people want to be part of it.

I agree with the honourable senator that we can and should be taking more initiatives throughout the entire country.

**Senator Munson:** I thank the honourable senator for that answer.

Senator Lang invited Senator Demers and me to Whitehorse for a Special Olympics event. That galvanized interest in the Special Olympics and the athletes who participated in them. We enjoyed playing soccer with them and had a banquet afterwards. The community paid attention, as small towns do.

I am still playing hockey. The honourable senator said he has just retired from the game. Perhaps he could organize a shootout in Whitehorse between him and me in an attempt to galvanize the city of Whitehorse, and the Yukon territory in general, to participate.

**Senator Mercer:** Would this be like Brazeau and Trudeau?

**Senator Munson:** This would be a little closer.

It could be a Senate-led initiative. We could have young, middle-aged and older senators participating in such events.

**Senator Day:** I think you should let Senator Raine play as well. It is her motion.

**Senator Lang:** Honourable senators, I would like to take up that personal challenge of my colleague, but he did say that he is still playing hockey and I am in retirement. I know that he does not want to take advantage of someone who is past his prime.

However, there are many other initiatives. The sponsor of this motion in the other place, John Weston, who, as honourable senators know, is a great advocate of fitness who not only talks

the talk, but also runs the run, and bikes the bike, has organized a bike ride for tomorrow at four o'clock. I believe it starts on the Hill. Those who want to participate are welcome to do so. If the Honourable Senator Munson has his bike available and can find the time, we would like to see him there.

**Hon. Yonah Martin:** Honourable senators, will the honourable senator accept another question?

**Senator Lang:** Yes.

**Senator Martin:** Honourable senators, I, too, will be speaking in favour of the motion. Our colleagues have expressed the importance of health literacy, health education and health awareness.

When I was in Whitehorse last summer, I saw the wonderful complex the honourable senator described. It is very well used. It is very important when community stakeholders all work together. Has the ministry of education made that a focus in Whitehorse for active participation and health for youth?

I was dismayed to see an article today or yesterday in the *National Post* about two teenagers wanting to bring junk food back into the schools. The Coquitlam school district, where I taught, did not serve pop and junk food. There is always that battle in trying to present healthier choices for kids. The provincial ministry of education must be at the table and make it a priority, along with federal leadership on the issue.

• (1540)

I thank Senator Lang for presenting the great example of the Canada Games Centre in Whitehorse, which is so well utilized. I hope to return there and use it in the future.

My question is about the role of educators and what happens in the schools and how important that is to the overall health of the students.

**Senator Lang:** I do not think there is any question that the role of the departments of education, not just in Whitehorse and the territory but throughout the provinces, is key in conjunction with parents to get kids involved in various athletic events. In our case, they are actively involved with the municipality and with non-governmental organizations that make use of this particular facility. That is what happens throughout the territory and, I would think, in many cases across the provinces.

Once again, when that centre was built, there was a lot of trepidation in the community as to whether it would be used enough and whether we could afford it. However, if you build it, they will come. That has been the case in Whitehorse.

(On motion of Senator Lang, for Senator Munson, debate adjourned.)

## NATIONAL FINANCE

### COMMITTEE AUTHORIZED TO STUDY TAX CONSEQUENCES OF VARIOUS PUBLIC AND PRIVATE ADVOCACY ACTIVITIES UNDERTAKEN BY CHARITABLE AND NON-CHARITABLE ENTITIES—DEBATE ADJOURNED

**Hon. James S. Cowan (Leader of the Opposition)**, pursuant to notice of April 26, 2012, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report on the tax consequences of various public and private advocacy activities undertaken by charitable and non-charitable entities in Canada and abroad;

That, in conducting such a study, the Committee take particular note of:

- (a) Charitable entities that receive funding from foreign sources;
- (b) Corporate entities that claim business deductions against Canadian taxes owing for their advocacy activities, both in Canada and abroad; and
- (c) Educational entities that utilize their charitable status to advocate on behalf of the interests of private entities; and

That the Committee submit its final report to the Senate no later than June 30, 2013, and retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

He said: Honourable senators, this motion arises out of my speech of April 5, 2012. On that day, I noted that the government, through its members here, had generated a certain amount of controversy concerning, in the words of the inquiry, the “interference of foreign foundations in Canada’s domestic affairs.” In particular, serious accusations were levied at a number of Canadian charitable organizations — accusations that many Canadians believe to be unwarranted. This was followed by special attention in the budget and proposed measures in Bill C-38, the budget bill, which is currently in the other place.

I do not propose to repeat what I said on April 5, but I urge honourable senators to read the debate from that day and from previous sittings on this inquiry. The purpose of my motion today is to enable us to determine whether in fact there is any merit to the allegations made against charitable organizations in this country and, at the same time, to provide a forum particularly for those organizations that have been attacked in this chamber to answer the very serious charges that have been made.

I said at the time that the privileges enjoyed by honourable senators in this place should never be used as a shield for a drive-by smear campaign. I am sure all of us agree on that and that we would therefore be anxious to invite those organizations to provide them with an opportunity to defend themselves.

That is only fair.

Indeed, the charges made by this government against Canadian charities did not end here in the Senate. Environment Minister Peter Kent has twice publicly suggested that charitable organizations in this country are engaged in money laundering. When pressed whether he was suggesting criminal activity, the minister did not disagree. These are very serious charges, honourable senators. They cannot be allowed to stand without providing a fair, impartial forum for those so accused to defend themselves.

**An Hon. Senator:** Hear, hear.

**Senator Cowan:** *The Globe and Mail* was so shocked by these statements, their lead editorial yesterday was headed, “Money Laundering: Wildly uncharitable accusations.” They noted: “The Environment Minister has accused unnamed environmental charities of criminal activity, and yet provides no specifics, except to point to the work of Conservative Senator Nicole Eaton.” As I said in my speech on April 5, honourable senators, we have entered a kind of echo chamber.

*The Globe and Mail* reviewed Senator Eaton’s charges of “political manipulation,” “influence peddling” and others and then said: “There is paranoia, there is partisanship, there are wild allegations. But evidence? No.” The article ended: “If there is anything nefarious here, it is hard to see what it is. The only nefarious thing in sight at the moment is a government bent on quashing a legitimate debate.”

Honourable senators, that is my conclusion as well. If there is evidence, let it come out, and let the respected, honourable organizations address the charges, fully and in public. A Senate committee can provide an excellent forum for a full and fair hearing of the evidence on both sides.

Of course, the issue here is not focused on one sector — environmental organizations. We deal here with matters of principle, and so our inquiry must look at foreign involvement in charities generally — who is funding the Fraser Institute, for example, as well as the Suzuki Foundation.

**An Hon. Senator:** Good question.

**Senator Cowan:** Frankly, since the controversy seems to revolve primarily around the tax consequences of political advocacy by organizations, I believe that we should not confine ourselves to charitable organizations but look at all political advocacy. As I said on April 5, there are no tax consequences that flow from the activities complained of by Senator Eaton and others opposite; foreign donations would not receive any taxpayer-subsidized benefit under Canadian law as no charitable receipt can be issued for Canadian tax purposes unless there is Canadian income for it to be deducted against. However, there are significant taxpayer-subsidized benefits given to corporations, such as big oil companies, which under our tax laws are able to deduct the cost of their advocacy and lobbying, including large fees paid to powerful lobbyists and lawyers as business expenses.

We cannot in good conscience look at one side — charitable organizations — without looking at the other side — the corporate lobbying deductions — in particular when one, the charitable side, has no taxpayer-subsidized element while the other, the corporate side, does.



Honourable senators, as we know, the issues raised in the inquiry have been followed with considerable interest and concern by thousands and thousands of Canadians. Canadians have noted the inherent problem of looking at only one side of the issue.

• (1550)

On April 27, a letter to the editor appeared in the *Toronto Star* from Mr. Gary Dale of West Hill, in Toronto, who pointed out the “fatal flaw,” as he put it, of looking only at lobbying by charitable organizations. He said that misses what he called “the larger context.” In his words:

What about taxpayer-funded corporate lobbying and public relations campaigns? These are business expenses that can be written off at tax time by corporations. Why should corporations get bigger breaks on their lobbying efforts than citizens? Indeed, why should corporations get any incentive to influence public policy if citizens aren’t afforded the same privilege?

It is important that we address all sides of this issue, honourable senators.

Many Canadians were also surprised to learn that their tax dollars had subsidized the establishment of at least one centre at a university that apparently has been engaged in political advocacy on behalf of private business interests. Again, it is only right that we would include that within our study as well.

Honourable senators, making speeches in the chamber is important, but I am sure we would all agree that where the Senate really shines is in the quality of its committee study of important public policy issues. That is the motivation for my motion. The serious issue raised by Senator Eaton and other senators on both sides of the aisle deserves this attention.

Honourable senators, I have been brief because I would like this motion to be adopted as quickly as possible so that our committee can begin this important work. Very serious issues were raised in the course of Senator Eaton’s inquiry, which deserve full and complete study by our National Finance Committee. Indeed, Minister Kent, in his remarks the other day, suggested that our National Finance Committee is already investigating these issues and that interested Canadians should follow the committee’s hearings. His parliamentary secretary, Michelle Rempel, was very clear on “Power and Politics” last Thursday. She said, “The Finance Committee in the Senate is studying some of these issues right now.”

In the circumstances, I urge all honourable senators on both sides to agree to pass this motion quickly and proceed to the study that the minister and his parliamentary secretary think is already well advanced.

**Hon. Daniel Lang:** Honourable senators, I was waiting to hear what the sponsor of the motion was going to say with respect to the issue before us. I appreciate the thought he has put into his remarks. I think we should all take some time to review exactly why he brought the motion forward and to examine what he said. We should also look at how events have moved forward with respect to the references to the National Finance Committee. It is something we would have to consider as well, in view of the context of the motion.

(On motion of Senator Lang, debate adjourned.)

(The Senate adjourned until Wednesday, May 9, 2012, at 1:30 p.m.)

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# DEBATES OF THE SENATE

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• 41st PARLIAMENT

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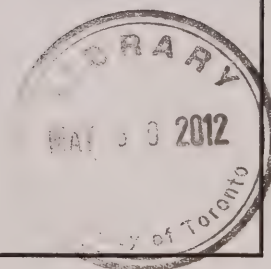
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OFFICIAL REPORT  
(HANSARD)

Wednesday, May 9, 2012

The Honourable NOËL A. KINSELLA  
Speaker



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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, May 9, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

[English]

Prayers.

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before proceeding to Senators' Statements, I would like to draw to your attention the presence in the gallery of Nancy Madrigal of Costa Rica and her spouse, Glen O'Neill.

Ms. Madrigal founded an association in her country that assists families with a loved one who was murdered. For the past five years, Senator Boisvenu has been working with Ms. Madrigal to create this organization.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

### SENATORS' STATEMENTS

#### EMERGENCY PREPAREDNESS WEEK

**Hon. Jean-Guy Dagenais:** Honourable senators, this is Emergency Preparedness Week 2012, a week that I believe is of great importance to Canadians and to which I would like to draw your attention.

This week gives us an opportunity to highlight and salute the work of everyone involved in emergency preparedness in the provinces and territories. At the top of the list are firefighters, police officers, paramedics and all of the people working in various provincial departments that handle emergency preparedness, formerly known as emergency and disaster preparedness.

Whenever there is a forest fire, a flood, a hurricane, drinking water shortages or contamination, an earthquake or even a prolonged power outage in winter, these are the people who step in.

Last week, I was especially pleased to announce, together with Public Safety Minister Vic Toews, that the government will soon allocate bandwidth to create a strong communication network among various emergency responders and even our American neighbours.

First responders risk their lives every day to protect our families and communities from disaster. The least we can do is to provide them with a reliable, solid, functional communication system, which we can now do thanks to the 700 MHz bandwidth that was recently freed up when television broadcasts switched from analog to digital signals.

In closing, on behalf of us all, I would like to thank those who work every day to keep our families and communities safe.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Sylvie, Vanessa and Sasha Vandekerckhove and Dawn Folliott, from Surrey, British Columbia. Their philanthropic work with the HOPE International foundation, as well as the Langley Memorial Hospital Foundation, are just a few causes supported by this generous family. They are the guests of the Honourable Senator St. Germain.

### NEW PATHWAYS TO GOLD SOCIETY

**Hon. Lillian Eva Dyck:** Honourable senators, I had the great honour of being invited, along with my colleague Senator Vivienne Poy, by the New Pathways to Gold Society Board of Directors to take part in their annual general meeting and tour the Fraser Canyon.

The events took place on April 18 to 21.

The NPTGS is a community-based organization dedicated to economic development through heritage tourism, First Nations reconciliation, community projects and heritage events along B.C.'s historic Gold Rush/Spirit Trails.

On April 20, I had the pleasure of participating in the opening ceremony of the Tikwalus Trail at Spuzzum First Nation. The Tikwalus Trail is a project put together by Spuzzum First Nation, the Hope Mountain Centre for Outdoor Learning and the New Pathways to Gold Society in partnership. Originally a First Nations trade route, the Hudson's Bay Company used this trail in 1848 for the transport of goods following the establishment of the Canada-U.S. border.

The grand opening of the Tikwalus Trail in Spuzzum and the Alexandra Bridge project involved First Nations representatives, heritage organizations, community activists and all three levels of government. The trail opening took place at the trailhead just north of Alexandra Lodge, where about 100 people attended from Vancouver, Harrison, Chilliwack and Hope to mark the completion of a \$98,000 project to restore a 12-kilometre loop on Lake Mountain.

Senator Poy and I had the honour of speaking at the opening of the Tikwalus Trail and participating in the cutting of a traditionally woven cedar bark rope to open the trail. We also attended a community presentation on the Alexandra Bridge project in Hope.

• (1340)

Learning about the project of restoring the heritage trail allowed us to revisit the history and the trail's significance to the First Nations people, the involvement of the Hudson's Bay



Company in relation to the trail, and the 30,000 gold-seekers who arrived in the Fraser Canyon a decade after the Hudson's Bay Company fur trade disaster in 1847.

I was pleased to learn about the unique history of the Fraser Canyon. The area was occupied by thousands of First Nation people, Chinese, Europeans and Americans during the gold rush. We visited the Yale Museum and saw Chinese artifacts from the gold rush era. In Lytton, we saw old Chinese writing on stone near the sites where they had mined for gold. We were also given a tour of Tuckkwiowhum Village, a First Nation heritage site.

The area between Hope and Lytton is a gold mine of unique history from the fur trade, the gold rush and the original First Nation inhabitants. I wish the New Pathways to Gold Society continued success in their endeavours to revitalize interest in the historic sites and trails in the Fraser Canyon.

## TD SCHOLARSHIPS FOR COMMUNITY LEADERSHIP

### CONGRATULATIONS TO 2012 WINNERS

**Hon. Donald H. Oliver:** Honourable senators, senior bureaucrats and politicians have been complaining for decades about the brain-drain and skilled-worker shortage in Canada, but the TD Financial Group is doing something about it.

I am delighted to inform honourable senators that 20 exceptional young Canadians have just been awarded the 2012 TD Scholarships for Community Leadership. The 20 finalists were chosen from nearly 4,000 applicants from across the country.

These young high school and CEGEP students have distinguished themselves in community leadership by their extraordinary concern for the people and environment around them. They are also, of course, characterized by their academic excellence. Most of the successful students have an overall academic average in the nineties.

Each TD scholarship is valued at up to \$70,000 and includes free tuition for up to four years of study at any approved university or college in Canada, \$7,500 a year towards living expenses, mentorship opportunities, and an offer of summer employment with TD Canada Trust during the years of the scholarship.

These annual scholarships, valued at more than \$1 million, are an integral part of TD's corporate social responsibility platform. The program has been in place since 1995. Since the program started, more than 300 young Canadians have been awarded this scholarship. From a social and business perspective, TD understands the short- and long-term value of investing in our country's youth.

Honourable senators, I wish to congratulate this year's recipients. In particular, I want to acknowledge and commend Paige Zwicker of Fletcher's Lake, Nova Scotia, and Aaron Stevens of Dartmouth, Nova Scotia, for their leadership and remarkable volunteerism.

Paige is passionate about making a difference in the lives of disadvantaged children. She intends to pursue a career in pediatric medicine and continue to provide care to children.

Aaron is dedicated to making Nova Scotia a safer place for lesbian, gay, bisexual, transgender and questioning youth. He is active in a number of initiatives that promote anti-bullying, health promotion and diversity. He hopes to pursue a career in human rights and international affairs.

For many years, I have been one of the judges selecting winning candidates from Ontario. It has always been an honour to interview the short-listed candidates because they are youth leaders who are outstanding community volunteers and advocates and the future leaders of Canada.

Last week, I attended the national awards ceremony at the Château Laurier to honour the 20 successful young leaders.

Honourable senators, it is clear that TD is proud to play a significant role in the education of some of Canada's brightest youth leaders. The TD Scholarships for Community Service are among the most exceptional and sought-after scholarships in Canada.

Congratulations to all of the 2012 recipients, and thank you, TD Financial Group, for supporting Canada's youth and giving back to our community.

[Translation]

## CROSS-BORDER SHOPPING

**Hon. Pierrette Ringuette:** Honourable senators, today I wish to draw to your attention the consequences of the government's decision to increase the value of goods that may be imported duty- and tax-free by Canadian residents returning from a trip abroad from \$50 to \$200 after a 24-hour absence and from \$400 to \$800 after a 48-hour absence. I have to wonder if the government consulted any Canadian border merchants or the provincial governments, because I think this measure will lead to problems that are obvious to everyone except the members of the Conservative caucus.

Minister Flaherty said that the loss of the 5 per cent GST will cost the government \$17 million in 2013-14, which brings their estimate of the increase in cross-border shopping to \$340 million.

[English]

Minister Flaherty said: "I'm not terribly concerned about cross-border shopping because we haven't changed the 24-hour rule." We know Minister Flaherty is not losing any sleep over his policy, but many other Canadians are.

Minister Flaherty just threw away \$17 million at a time they claim to be forced to cut OAS and EI. Provincial governments stand to lose roughly \$23 million in lost sales tax revenue each year, money that could be going to provincial programs such as health, education and food banks. Annual tax revenue for federal and provincial governments of \$40 million is gone — about half a billion dollars in the next decade.

The Harper government wants the provinces to take an increased burden for delivery of service at a time when they are also unilaterally cutting their ability to generate revenue. Minister Flaherty and the Prime Minister should be working with the premiers, not passing on responsibility along with reducing tax revenue.

Another hard-hit group will be the retailers, particularly those along the U.S. border. They are a group that is already having trouble due to the economic downturn.

Honourable senators, \$340 million in increased border shopping is the equivalent of close to 11,000 full-time jobs in the retail sector. This government has responded to concerns of retailers by bringing in policy that encourages their customers to spend even more money over the border. Why is Canadian policy aimed at helping the American economy at the expense of our businesses and our jobs?

The mayor of Killarney, Manitoba, said it best: "The only incentive for any Canadians in the last federal budget was, 'Hey, shop American.'"

In fact, U.S. officials have been raving about how this move will boost their economy. A recent article in the *Rochester Democrat and Chronicle* was entitled "Canada's change in duty-free rules expected to boost western New York" and included the CEO of the city's tourism agency saying: "This is great news for the Rochester region."

Well, it is not great news for Canadians.

### GLOBAL MATERNAL AND CHILD HEALTH

**Hon. Asha Seth:** Honourable senators, next Sunday is a celebration of motherhood. For my family, Mother's Day will be extra special this year as we welcome a new member of our family. This past weekend, on Saturday, May 5, at 2:35 a.m., my daughter Angie and her husband Roy gave birth to my new grandchild, Daniel Stanjevich, at St. Joseph's Health Centre in Toronto. I am so proud of my daughter and the dedicated team of nurses and doctors who took care of us. I would like to especially thank Dr. Sybil Judah for a wonderful delivery.

I am also proud of the initiatives our Prime Minister has taken to address global issues affecting mothers. Less than a year ago, Prime Minister Stephen Harper endorsed the final report of the United Nations Commission on Information and Accountability for Women's and Children's Health, which contains bold and practical measures to help save the lives of mothers and children living in the world's poorest countries. The Prime Minister worked alongside co-chair President J.M. Kikwete of Tanzania and UN Secretary-General Ban Ki-moon to focus Canada's efforts on strengthening health services at the community level, improving nutrition for both mothers and children, and preventing and treating the most prevalent illnesses and diseases that cause maternal and child mortality.

Every child one encounters is a divine encounter.

At home, the Prime Minister proposed a clear, economically sound plan to support families and communities by keeping taxes low for families and individuals, and investing in projects

for mothers in communities of all types. It includes providing \$11.9 million in 2012-13 to support shelter services and violence prevention programming on reserves.

I want to wish all mothers, grandmothers and daughters across Canada the warmest wishes on their special day. I wish to continue to support the empowerment of mothers and women across Canada and around the world, because it is not until one becomes a mother that one's judgment slowly turns to compassion and understanding.

Happy Mother's Day!

• (1350)

### MULTIPLE SCLEROSIS AWARENESS MONTH

**Hon. Jane Cordy:** Honourable senators, May is Multiple Sclerosis Awareness Month. As you all know, multiple sclerosis is the most common neurological disease affecting young adults in Canada. Most people with MS are diagnosed between the ages of 15 and 40 years of age, and the unpredictable effects of MS last for the rest of their lives.

There is groundbreaking research being undertaken in more than 50 countries around the world in the area of CCSVI for MS patients. Indeed, venous angioplasty is being done in over 50 countries in the world. Unfortunately, Canada is not one of them. These studies have shown measurable results in relieving symptoms for those suffering from MS through the improvement of blood flow to and from the brain. Enough evidence exists that we need to look at this treatment more closely and to figure out what is valid and what is not regarding our understanding of CCSVI and MS. Canada owes this to the thousands of Canadians and their families who are afflicted with this disease. Canada should be contributing to this research with our own Phase II clinical trials.

Honourable senators, we need the science. We need the "made in Canada" evidence.

It has been almost a year since the federal government announced it would begin the long process to allow clinical trials here in Canada, but their efforts have fallen far short of what is required and progress is at a standstill.

The MS registry was announced in March 2011 by Health Minister Aglukkaq, and yet information will not be collected until September 2012. We will have lost 18 months of data.

Just as member of Parliament Kirsty Duncan has been doing in the House of Commons, I have been working to raise consciousness about MS in the Senate with my Senate private member's bill, Bill S-204, which seeks to establish a national strategy for CCSVI, and with my inquiry on MS and CCSVI.

As this is Multiple Sclerosis Awareness Month, I urge honourable senators to examine closely the issue of MS and CCSVI so that one day in the near future, Canadian MS patients can benefit from "made in Canada" research and treatment. Honourable senators, talk to those who have MS and listen



to their concerns. Canadian MS patients should not be forced to travel to the United States, Europe, Mexico or Poland to be cared for and treated for MS. Canadians expect, and rightfully so, to be treated and cared for in Canada by Canadian doctors. Our government should not be promoting medical tourism.

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of members of the Saint-Eustache Order of the Knights of Columbus and their spouses. They are guests of the Honourable Senator Carignan.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

## ROUTINE PROCEEDINGS

### CANADIAN NATO PARLIAMENTARY ASSOCIATION

JOINT VISIT OF THE MEDITERRANEAN  
AND MIDDLE EAST SPECIAL GROUP (GSM) AND  
THE SUB-COMMITTEE ON NATO PARTNERSHIPS,  
NOVEMBER 14-17, 2011—REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation at the joint visit of the Mediterranean and Middle East Special Group (GSM) and the Sub-Committee on NATO Partnerships (PCNP), held in Djibouti, Republic of Djibouti, from November 14 to 17, 2011.

[English]

JOINT VISIT OF THE COMMITTEE ON CIVIL  
DIMENSION OF SECURITY AND THE SUB-COMMITTEE  
ON EAST-WEST ECONOMIC CO-OPERATION  
AND CONVERGENCE, OCTOBER 25-27, 2011—  
REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Joint Visit of the Committee on Civil Dimension of Security and the Sub-Committee on East-West Economic Co-operation and Convergence, held in Sarajevo, Bosnia and Herzegovina, from October 25 to 27, 2011.

[Translation]

PARLIAMENTARY TRANSATLANTIC FORUM,  
DECEMBER 5-6, 2011—REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association

respecting its participation at the Parliamentary Transatlantic Forum, held in Washington, D.C., United States of America, from December 5 to 6, 2011.

[English]

ROSE-ROTH SEMINAR AND VISIT OF  
THE SUB-COMMITTEE ON TRANSATLANTIC DEFENCE  
AND SECURITY CO-OPERATION,  
NOVEMBER 21-25, 2011—REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Seventy-eighth Rose-Roth Seminar and the Visit of the Sub-Committee on Transatlantic Defence and Security Co-operation, held in London, Lincoln and Glasgow, United Kingdom, from November 21 to 25, 2011.

### BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO MEET DURING SITTING OF THE SENATE

**Hon. Irving Gerstein:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Banking, Trade and Commerce have the power to sit from 1 p.m. to 3 p.m. on Wednesday, May 16, 2012, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF THE PROCEEDS OF CRIME (MONEY LAUNDERING)  
AND TERRORIST FINANCING ACT

**Hon. Irving Gerstein:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Tuesday, January 31, 2012, the date for the presentation of the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17) be extended from May 31, 2012 to June 21, 2012.

## QUESTION PERIOD

### HEALTH

#### TOBACCO CONTROL PROGRAM

**Hon. Catherine S. Callbeck:** Honourable senators, my question is for the Leader of the Government in the Senate. The Tobacco Control Program at Health Canada has been doing good work in getting people to quit smoking. The smoking rate has gone

from 22 per cent down to 17 per cent in 10 years. However, this program is losing 30 per cent of its funding at a time when one in five adult Canadians still smoke.

Why is the government cutting funding for a program that saves lives and reduces health care costs?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I think the answer is obvious; the answer is in the honourable senator's statement. Thanks to the work of Health Canada, tobacco cessation programs have been extremely successful. I add a personal note to this: My sister was an Associate Deputy Minister of Health and was in charge of this program when it was in full flight.

• (1400)

Canada is a world leader in tobacco control. Smoking, as the honourable senator pointed out, is at an all-time low in Canada, dropping from 22 per cent to 17 per cent over the past decade. We are extremely proud of this record, and the previous government should be equally as proud of these efforts.

We are now focusing our resources on areas that we hope will make a real difference with regard to the use of tobacco, such as Aboriginal smoking rates. Sadly, as we know, these rates are about three times national levels.

Honourable senators, like all programs that this or any government embarks upon, the resources used to get such great results for those programs can be redirected to emerging issues in the Department of Health.

That program is still very active, well funded and is focusing on areas of need, such as the one I mentioned in the Aboriginal community.

**Senator Callbeck:** I thank the leader for that answer. I certainly believe that the program has been successful, but the fact remains that one in five Canadians still smoke. Tobacco is the leading preventable cause of disease and death in the country. It kills 37,000 Canadians a year and costs about \$4.4 billion in health care.

The fact of the matter is, honourable senators, that this program is being cut by 30 per cent this year. The leader says that the government will focus more on population groups whose smoking rates are higher than the national average. If that is the case, what specific initiatives does this government plan to bring forward and how much does it plan to invest in these initiatives? Is it still the same figure? As I said, the cut was 30 per cent. Will the government add any more money for these new initiatives, or will it still cut funding by 30 per cent?

**Senator LeBreton:** Honourable senators, any reasonable person would acknowledge that when the government puts money into a particular program and the program works and is successful, it becomes like a lot of other things that the government does: it does not go on forever, particularly beyond when there is an opportunity to reassess and use resources elsewhere.

With regard to the use of tobacco, all honourable senators would acknowledge that over the years remarkable progress has been made in getting people to quit smoking. In particular, it is

heartening to see young people quitting, though I still worry about some of the programs targeted to young women.

Having said that, the Minister of Health and the officials at Health Canada are targeting their efforts toward those areas that still require a lot of attention. As we know, the Aboriginal community is particularly vulnerable in this regard. Health Canada introduced new warning labels on cigarette packages, and we passed laws to ban the flavoured cigarillos that are popular with young people. Of course, they were targeted to young people; we ended that. All of these initiatives will continue.

With regard to what specific plans health officials have with regard to targeting our Aboriginal communities, I would be happy to attempt to get more information on them.

**Senator Callbeck:** I would appreciate the leader getting the information on the specific programs.

The other part of the question is how much will the government invest in these initiatives? As I said, the program that was so successful is being cut by 30 per cent. Will the government increase that for these specific initiatives, or will it just remain what it was last year, minus 30 per cent?

**Senator LeBreton:** Honourable senators, unless I am missing something, when a program is successful and one has expended a certain amount of money, it is prudent and wise to assess it. If the program has worked and the money that was expended achieved the results desired, then there is no law that the same level of funding will always be there forever and ever. We are accountable to taxpayers, and we are certainly accountable to our public for making proper decisions about their health.

Honourable senators, we should be celebrating the success of this program. It has been completely successful. Obviously, as I have acknowledged, there are areas of concern with Aboriginal communities and some initiatives targeted at youth. However, honourable senators, this is good news. Please accept it as that: It is good news.

## AGRICULTURE AND AGRI-FOOD

### CANADIAN AGRICULTURAL ADAPTATION PROGRAM

**Hon. Terry M. Mercer:** Honourable senators, the Canadian Agricultural Adaptation Program, or CAAP, was designed to be industry and locally led to have the flexibility to respond to large and small research and development projects and proposals that would benefit local farming industries across the country. CAAP works through local councils of directors in each province and territory.

In Nova Scotia, the CAAP is maintained by Agri-Futures Nova Scotia, one of fourteen regional councils across the country. There are 10 directors from all sectors in agriculture and agri-food and even a youth director. All members are nominated by the Nova Scotia Federation of Agriculture and there is no involvement by government in the process. There are, however, two liaisons — one for the province and one for the federal government — who sit on the board as non-voting members.



On April 11, Agri-Futures Nova Scotia was notified by staff of Agriculture and Agri-Food Canada that there is no role for regional councils in the delivery of future federal programs after the end of the currently delivered CAAP program, which is scheduled to end on March 31, 2014.

Would the Leader of the Government in the Senate kindly tell us why the federal government has decided to end such a worthy program that is maintained by local people for local people?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I did note that the Senator Mercer mentioned 2014; that is two years from now. Again, I do not have specific details, but I will be happy to make an inquiry on the honourable senator's behalf.

As I said to Honourable Senator Callbeck, programs are initiated by governments, and we have many that were initiated back in the 1970s that are ongoing. Programs were initiated for specific reasons and they go on and on. They are supposed to be "sun-setted." I have been known to say, and I have said it here, the sun never sets on some of these programs.

In our efforts to prudently manage taxpayers' dollars, we go through a process of evaluation. We decide, after consultation with officials, which programs are working and which ones are not. We often change the focus of programs. One such case was under Status of Women, where, unlike the charges from the honourable senator's side that we were cutting from the program, we actually increased the funding to the Status of Women, but changed the focus of the program. Instead of funding advocacy groups, we funded actual community programs. That is the prerogative of the government.

Honourable senators, we believe, in the interests of taxpayers' dollars, that all programs are subject to assessment and revision or, in some cases, termination. Otherwise we would still be paying for every program ever started by government, going back to 1867, many of which are absolutely of no use.

However, with respect to the honourable senator's question, I will attempt to get an answer.

**Senator Mercer:** Talking about "value for money," honourable senators, this is yet another example of the federal government not trusting the local people.

• (1410)

Honourable senators, since 2009, Agri-Futures Nova Scotia has approved 62 projects. Listen to this: The cost to administer them was 7.65 per cent as of March 31. That is a pretty good ratio. If the administration costs are down to 7.65 per cent, that is a good deal; one cannot get any better than that.

One of the projects that Agri-Futures funded dealt with blueberries, specifically pollination by honeybees. Because of declines in the honeybee population, researchers were brought together to discuss the issues affecting the pollination of crops, including bee health and ecosystems. Bluets NB/NB Blueberries was the recipient of an award to do this research.

I bring this project to your attention, honourable senators, because you may ask why Agri-Futures Nova Scotia is funding a New Brunswick project. That is the beauty of this program and it is another one of the important things that CAAP does. It can fund across provincial boundaries because the growth of blueberries in Nova Scotia and New Brunswick is a regional issue.

We all know how much this government likes to share. Again, why is a program like CAAP being cut when it obviously helps the agriculture industry with problems and concerns as they arise at the local level?

**Senator LeBreton:** Honourable senators, I point out that I will make inquiries on the honourable senator's behalf about the specific program mentioned.

Again, this government, unlike previous governments, does get out of the way of provincial governments. There are programs that are administered federally and working across provinces. We went through these things with the officials, and the officials are always very much part of the deliberations. We obviously work with the various officials and the provinces and territories to ensure that funding the federal government provides is actually doing what it was intended to do.

I do not know the specifics of the program that the honourable senator mentioned, but I can quite confidently tell him that our government is not in the business of cutting programs just for the sake of cutting programs. An assessment is done. In all cases, the question is: Is this program delivering what it intended to deliver? If the answer is no, then the program is not continued. That is what any reasonable government of whatever political stripe would do in the interests of the taxpayer.

**Senator Mercer:** The Leader of the Government in the Senate talks about the government getting out of the way. That is exactly what has been going on here. The government has been out of the way. The local regional councils have been meeting and making decisions. They have been monitored by a representative of the province, and the government is staying out of it.

The Agri-Futures Nova Scotia people have been told that control will now come from Ottawa. The government wanted to stay out of the way. Now, they have been told that the government will get right in the thick of it, when we have a system whereby these proposals are peer-reviewed by local farmers and agri-industry people. They make a decision that is beneficial to all sectors in the agricultural industry at the local level. Everyone is happy. Problems are solved. New research is done. Farmers become more efficient and consumers get a better product more quickly. Now, however, the government wants to get involved.

Does that not run counter to the argument that the government wants to stay out of the way?

**Senator LeBreton:** Honourable senators, I wish to point out again that I am not aware of the particular program that the honourable senator is referring to, and that I did say that I would inquire about it.

However, there are many programs. When we went through the process of reviewing programs, there were many programs where 10, 12, or 14 different groups were involved in delivering the same

program. In many cases, in the name of streamlining programs, it was determined that one organization, whether it be local or here in Ottawa, was a much better and more efficient way. I have no idea, as I have already said, about the particular program to which the honourable senator refers. I will make inquiries.

## HEALTH

### MENTAL HEALTH STRATEGY FOR CANADA

**Hon. Jane Cordy:** Honourable senators, my question is for the Leader of the Government in the Senate. A national strategy on mental health was released by the Mental Health Commission yesterday. That was a great day for those of us who have a special interest in mental health and mental illness. It was certainly a great day for those of us who served on the Standing Senate Committee on Social Affairs, Science and Technology that produced our study *Out of the Shadows at Last*, which dealt with mental health, mental illness and addictions.

Last night on CPAC, I watched an interview with Dr. David Goldbloom, the new Chair of the Mental Health Commission. He did an excellent job of explaining the new national strategy. Then, I watched an interview with Minister Aglukkaq.

**Senator Mitchell:** She will be helpful.

**Senator Cordy:** It was not very helpful. The minister stated that the Conservatives brought in the Mental Health Commission. That is true. Those of us who were on the Social Affairs, Science and Technology Committee were delighted that the government accepted that recommendation.

The minister went on to comment at the close of her interview that the Mental Health Commission was not supported by opposition members.

**Some Hon. Senators:** Shameful.

**Senator Cordy:** That comment was worse than misleading; it was blatantly false. I would call it a lie, which it was, but that would be unparliamentary language, so I cannot call it a "lie."

**An Hon. Senator:** Go ahead.

**Senator Cordy:** However, as a member of the Senate committee that recommended the creation of the Mental Health Commission, I find this offensive.

The minister is making mental health a partisan issue. Senators on both sides of this chamber feel passionately about doing the right thing for those with poor mental health. Yesterday was a prime example when statements were made about Mental Health Awareness Week by senators from both sides of the chamber, and no one made those statements partisan.

Will the leader please ask Minister Aglukkaq to apologize for her public comments, which are false and an insult to senators from both sides of this chamber who are working on this issue?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I did see the interview with Dr. Goldbloom, but I must confess that even with my great interest in the whole issue of mental health, I was curious about what was going on in the hockey game between New Jersey and Philadelphia. I switched the channel and did not see the minister's interview.

**Senator Dawson:** Ignorance is bliss.

**Senator LeBreton:** Obviously, honourable senators, I cannot comment on what the minister was referring to, although in the parlance of this new Parliament, we all know that when the opposition is referred to, it is actually the New Democratic Party.

I do not know if something happened in the House of Commons between the NDP and the government; I will have to check.

Having said that, like all of honourable senators on both sides of this chamber, I welcomed the release of the Mental Health Commission's Mental Health Strategy for Canada.

I must confess, I was very disappointed at the coverage on our national news networks, both the CBC and CTV, with regard to this very important subject.

**Senator Munson:** What does that have to do with the question?

**Senator LeBreton:** On CTV we had Lisa LaFlamme bemoaning the fact that we were the only country in the civilized Western World that did not have a mental health strategy, to which I answer, yes, that was true until we formed the government. Of course, that is a fact.

• (1420)

As Honourable Senator Cordy has acknowledged, the Mental Health Commission was created as a result of the Senate study chaired by our former colleague, the Honourable Senator Michael Kirby, who then took leave of the Senate and was appointed by the government to head up the commission.

Obviously, the government is taking the recommendations and the roadmap very seriously. We have already taken a number of measures on the mental health front which I would be happy to put on the record. If there is fairness done in this place, honourable senators will acknowledge that we have done so.

In answer to the honourable senator's question about the comments of Minister Aglukkaq, I do not know the circumstances of them or to what she was referring, but I will be happy to ask her.

**Senator Cordy:** Honourable senators, her comments were specifically related to the Mental Health Commission. She specifically said that it was not supported by opposition members. That is offensive to every senator in this chamber, and it is also offensive to every member of Parliament in the other place.

This should not be a partisan issue. The Minister of Health has made it a partisan issue. I am very disappointed. I was very troubled by her comments last night.



I ask the leader again to please refer to the comments on CPAC. I am sure that her office staff can get them. Again, the comment was, "It was not supported by opposition members."

I ask the leader to please ask the Minister of Health to apologize to us in this chamber.

**Senator LeBreton:** Honourable senators, I believe that when we specifically earmarked significant funds for the treatment of mental illness in Budget 2012 and previous budgets, the opposition in the other place voted against those budgets. Perhaps the minister was referring to that.

However, as I indicated earlier, I will ask my colleague exactly what she was referring to and I will let the honourable senator know.

[Translation]

## VETERANS AFFAIRS

### LONG-TERM CARE PROGRAM

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is for the Leader of the Government in the Senate. Last week, I asked a question about Ste. Anne's Hospital, which will be transferred to the Government of Quebec.

The leader promised me answers on some very specific aspects of this issue. There have been developments since then, and I would like her to take them into account when she examines this issue in order to provide a response.

The Quebec health minister, Mr. Bolduc, has said that there are fewer and fewer veterans, but that there are more and more seniors who need specialized care.

That means that veterans do not become seniors. That means that veterans will remain veterans and that civilian seniors need care.

Modern-day veterans were offended and outraged by the minister's statement because he did not specify that he was talking about veterans of World War II and the Korean War.

In her discussion and response, could the leader tell us whether Minister Blaney is going to talk to his friend in Quebec, Minister Bolduc, and tell him that, although the number of veterans of World War II and the Korean War may be decreasing, the overall number of veterans is not growing smaller. On the contrary, Canada has almost 600,000 veterans. It is rather essential that a minister be able to make this distinction given the importance of this issue.

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, far be it from me, as the Leader of the Government in the Senate, to try to answer for the remarks of a minister of another jurisdiction.

I do not know whether the senator is referring specifically to those veterans who are being cared for at Ste. Anne's Hospital. As the honourable senator knows, the federal government has been in negotiations with the Government of Quebec with regard to transferring Ste. Anne's Hospital to the Government of Quebec. Part of the negotiations between the federal government and the Government of Quebec has been the absolute insistence that veterans in the St. Anne's facility continue to receive priority access to the exceptional care that they have been getting in that wonderful facility, and in both of Canada's official languages.

We have made it very clear that under no circumstances would we compromise the level of care for our veterans. A transfer to the Quebec government would have to take all of those factors into account.

If the Minister of Health for the Province of Quebec was talking about aging veterans, I would have to see the context of what he was saying. Obviously veterans of the Second World War are aging. There is a member of my own family who was at Dieppe and he is now 88, I believe.

I will try to ascertain in what context he made those comments and whether it would in any way be contrary to the agreements that the federal government and the province are negotiating with regard to Ste. Anne's Hospital.

[Translation]

**Senator Dallaire:** Honourable senators, the point is still relevant because the previous government invested close to \$132 million to modernize this hospital so that veterans could finally have their own rooms after living 40 to a room for decades. Of the 446 beds in the hospital, over 400 are still occupied by veterans. Yet, all of a sudden, the government is in a hurry to give this large facility to the province, which is too ignorant, with its limited knowledge of federal portfolios such as the veterans portfolio, to notice that there may be a whole lot of veterans in Quebec who are offended because they are not completely comfortable with seeing veterans leave Ste. Anne's Hospital or hearing that there are no more veterans and that veterans are disappearing. In that regard, those who served our country in the past and those who are currently serving it are all in the same mess.

The two ministers need to clear up this misunderstanding. Doing so is really essential for veterans' morale. The government supports veterans' views of the respect that should be shown to them.

[English]

**Senator LeBreton:** Honourable senators, I absolutely agree. As I stated, part of the agreement for the transfer of Ste. Anne's Hospital from the federal government to the Province of Quebec was that under no circumstances was the level of care to which our veterans have access to change at all.

I will seek clarification on exactly what transpired with the minister with regard to the transfer of Ste. Anne's.

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

**Hon. Consiglio Di Nino** moved second reading of Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

He said: Honourable senators, I am pleased to rise to speak to Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

• (1430)

Bill C-26 was introduced in the other place in November 2011. It was passed with support from all parties following extensive debate and committee hearings. Some may not be familiar with the policy and objectives of Bill C-26, so I will endeavour to describe the changes it proposes and some of the important revisions made in the other place.

[Translation]

Honourable senators, Bill C-26 has two parts. The first consists in broadening, within reason, a citizen's authority to make an arrest; the other consists in simplifying the Criminal Code provisions relating to the defences of property and persons.

Defences of property and persons and the authority to make a citizen's arrest are separate matters of law. However, confrontations between people are fluid and dynamic and the circumstances often evolve in such a way as to bring all these legal mechanisms into play in a single incident.

Allow me to give an example: a homeowner is awoken in the night by the sound of someone breaking the window of his car in order to steal it or its contents. The homeowner rushes downstairs, goes outside and tries to catch the thief and recover any belongings that may have been taken. In doing so, the homeowner would be protecting his property.

A civic-minded homeowner might try to restrain or apprehend the thief in order to hand him over to the police and have him charged with attempted robbery. With that objective in mind, the homeowner proceeds to make a citizen's arrest. In either case, if the thief resists or reacts with force, the homeowner can end up in a situation of self-defence.

[English]

Honourable senators, while these are three distinct legal mechanisms, they all relate to the broader question of how citizens are permitted to lawfully respond to urgent and unlawful threats to their property and person.

Before I turn to the details of the legislation, I would like to briefly address concerns that Bill C-26 will encourage vigilante behaviour. Let me state unequivocally that law enforcement is and must remain primarily the function of the police. The police

are trained and educated in the appropriate use of force and in the requirements of the Charter when a person is suspected of a crime and arrested, and the police are subject to numerous specific forms of accountability for their conduct.

Arrests and other encounters with people who are in the process of committing a crime are inherently dangerous. All Canadians are cautioned against taking risky measures or endangering their lives or the lives of others. Attempting to stop a crime can involve conduct that could itself amount to a criminal offence, such as assault or forcible confinement of the suspect. If the conditions for a citizen's arrest or a lawful defence are not met, one may be subject to criminal charges. For all these reasons, it is always preferable to leave crime control to the professionals, namely, the police. This message bears repeating at every occasion.

Honourable senators, let me briefly describe the citizen's arrest proposals in Bill C-26. An arrest consists of the actual seizure or touching of a person's body with a view to that person's detention. The pronouncements of words alone can constitute an arrest if the person submits to that request. However, arrest often involves touching, which can constitute an assault. The power of arrest, if lawfully exercised, prevents the arresting person from being guilty of a crime.

There are arrest powers under the common law, under provincial statutes and, of course, under the Criminal Code. When a person other than a peace officer arrests someone, this is commonly referred to as a "citizen's arrest."

An arrest is not a licence to assault. Whenever an arrest is made, the arresting person is authorized only to use whatever force is reasonable in the circumstances. Any excess force can lead to criminal charges against the arresting person. Causing death or grievous bodily harm during an arrest is only reasonable when it is necessary to preserve a person's life.

[Translation]

Honourable senators, the Criminal Code sets out a wide range of powers of arrest for the police and for citizens. Bill C-26 seeks to amend section 494(2), under which anyone who is the owner or a person in lawful possession of property, or a person authorized by the owner or by a person in lawful possession of property, may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property. In other words, a citizen can arrest a person he finds committing a criminal offence on his property.

Even if we wanted the police to respond immediately to every crime, that is simply not realistic. Sometimes people have to have the power to take action to protect their own interests.

For an arrest to be valid, a person has to have reasonable grounds to proceed with an arrest, which means that the person has to believe that an offence is being committed on or in relation to property and that this belief has to be shared by a hypothetical reasonable person in the same situation. Section 494 also imposes a legal requirement on anyone who arrests a person to deliver the person to a peace officer forthwith.



[English]

Honourable senators, while this power of citizen's arrest seems reasonable and balanced, in fact it is limited in a way that can potentially work an injustice to a property owner.

The arrest must be made when the crime is in progress. An arrest made even a short while after the crime was observed is unlawful. There may be many reasons why an arrest was not made on the spot: The suspect may have escaped too quickly, or the property owner may have been outnumbered and fearful to approach multiple suspects.

To address this limitation, Bill C-26 would modestly amend subsection 494(2) of the Criminal Code to permit a property owner to arrest someone they had previously found committing an offence in relation to their property, so long as the arrest is made within a reasonable time of the offence. The person must still detect the crime in progress, but if arrest is not possible at that very moment, it will still be lawful if made a short time later.

The extended time in which an arrest can be made is not unlimited. Any delay must be reasonable. The courts will be scrupulous in safeguarding the rights of the arrested person by inquiring into the circumstances of the delay, such as the reasons for it and whether it had a detrimental impact.

• (1440)

Honourable senators, even though this is a very modest expansion of the citizen's power of arrest, the government remains committed to discouraging vigilante behaviour and to preserving the proper balance between citizen involvement in law enforcement and the role of the police as our primary law enforcers.

Bill C-26 therefore includes an additional safeguard. Before an arrest can be made after the offence is committed, the citizen must turn their mind to whether the police are able to make the arrest, which is a far preferable circumstance. This requirement will ensure that citizens use this expanded power only in cases of a true emergency.

Honourable senators, it is also important to realize that the citizen's power of arrest can be exercised not just by the owners of the affected party but also by private security agencies retained by them. The owner of a small convenience store may be on site to stop a thief, but bigger stores, for instance, hire professional security guards authorized to act on behalf of the store owner.

A lot of concern was expressed in the other place about the potential of Bill C-26 to broaden the powers of private security agents. It is clear that in the last few decades the private security industry has boomed. The overwhelming majority of citizens' arrests are in fact made by private security agents and not by individual property owners. Concerns seem to revolve around the lack of accountability and training of security guards as compared to police and with their willingness to take on more police-like functions.

[Translation]

There are definitely many issues with respect to the private security industry that are worth examining. Some basic facts about this industry may help us understand the situation. The

regulation of the private security industry, just like that of many other industries and most police forces, is a provincial responsibility.

Most provinces currently regulate the private security industry. The regulations require security officers to have licences, which obliges those interested to undergo certain types of training. These regulations also set out specific accountability measures. As with many other activities subject to regulation, licences can be revoked and administrative penalties imposed.

Civil suits can be lodged against police officers for inappropriate actions. Police officers can also face criminal charges, for example, if they use excessive force while making an arrest. These same accountability measures apply to private security officers who use excessive force or act without motive.

[English]

Honourable senators, let me now describe the long-overdue simplification and clarification of the law on self-defence and defence of property contained in Bill C-26.

The defence of property and defence of the person are claims made by a person alleged to have committed a criminal offence, typically some kind of assault. The person asserts that he or she should not be held responsible for the alleged offence because their actions were motivated by a need to defend a protected interest, whether the safety of a person or the possession of property. Both reasons can justify conduct that would otherwise be criminal.

Since its inception in 1892, the Criminal Code has provided defences for the protection of persons and property. However, one of the unfortunate realities is that they are worded in an extremely complex and confusing manner. The problem is that there are, in fact, multiple variations of each defence depending on the slightly differing circumstances, even though all the specific rules share a more basic underlying set of policies.

There are a total of nine sections to describe two defences. Our self-defence laws, in particular, have been the subject of decades of criticism by the judiciary, including the Supreme Court of Canada, trial counsel, criminal law academics, bar associations and law reform bodies. Unclear laws complicate or frustrate the charging decisions of the police who themselves may have difficulty understanding what is permitted.

Judges consider these provisions notoriously problematic when it comes to instructing juries. Juries do tend to get it right, but this is despite the law, not because of it.

The changes in Bill C-26 to the defences of persons and property would completely replace the existing legal provisions with new and much simpler ones. The proposed new defences would reduce the existing rules into their most fundamental elements, elements that are consistent no matter what the particularities of the situation are.

We no longer need different rules for different circumstances. We need only one rule that clearly and simply sets out the conditions for defensive action and that is capable of being understood and applied in all situations.

[Translation]

Current legislative provisions are extremely complex and convoluted, but the defences set out in Bill C-26 can be easily summarized. With regard to the defence of property, a person should not be held responsible for a criminal offence when it is a reasonable response taken for the purpose of protecting property in his or her possession from a reasonably perceived threat of it being taken, damaged, destroyed or trespassed upon.

In the case of self-defence, a person should not be held responsible for a criminal offence he or she commits if it was a reasonable action taken for the purpose of protecting himself or herself or another person from a reasonably perceived attack by another person.

Clearly, what is reasonable in one case may not be reasonable in another. The facts, circumstances and individuals involved in each situation must be taken into account. For instance, shooting someone in the leg may be a reasonable reaction if the person was carrying a weapon and had threatened to kill you, but it would not be reasonable if the aggressor was a young person who was threatening to simply push you. Reasonableness must therefore be interpreted as a flexible criterion based on the circumstances.

Self-defence is particularly important; it arises much more frequently than the defence of property, and it can provide a defence to murder. Everyone understands what self-defence means, even if they have not consulted the Criminal Code. Self-defence has to do with human beings' fundamental instinct to protect themselves.

[English]

Honourable senators, because of the central role of self-defence in our system of criminal law, Bill C-26 goes an extra step and proposes a list of factors that the courts can consider in determining whether the actions a person took — assuming that the person reasonably feared an attack and acted for defensive purposes — were reasonable in the circumstances.

Without limiting the nature and scope of factors that could be taken into account, Bill C-26 sets out some of the more familiar and important considerations. This list should assist judges in their duty to instruct juries on how to apply the law to the particular set of facts before them. Hopefully, it would also signal to judges that even though the wording of the defence has been simplified, the bulk of existing cases decided under the old law should continue to apply.

• (1450)

Some of the critical, relevant factors include the nature of the threat and whether any weapons were involved; the relative physical composition of the parties, such as their age, size and genders; and proportionality between the incoming threat and the defensive response.

[Senator Di Nino]

Another very important factor has to do with the special circumstances of abusive, intimate relationships. The 1990 Supreme Court of Canada decision in *Lavallee* acknowledged the difficulties that juries can have in finding the behaviour of a battered spouse to be reasonable. For instance, juries may believe that the abused person should simply have left and that this would have prevented the abuse.

In *Lavallee*, the Supreme Court of Canada clarified that expert evidence can be called to provide an explanation as to why an accused did not flee when they perceived their life to be in danger, why the accused believed they were in danger, and why they believed they had to act as they did.

For these reasons, the list of factors includes references to the history of the relationship between the parties, including whether there were prior acts of violence.

Honourable senators, the members of the Justice and Human Rights Committee in the other place made several changes to the clause that sets out the list of factors to be considered, which I would like to briefly discuss.

The committee heard from over a dozen witnesses from associations representing criminal lawyers from both prosecution and defence sides, various police associations, associations representing women offenders, the private security industry and convenience store owners.

The committee agreed that the list of factors could be improved in certain ways, and they made three modest but meaningful changes. First, in an effort to ensure that the assessment of self-defence effectively balances the subjective perceptions of the accused against the need for action to be reasonable, they modified the words of the provision to add that "the court shall consider the relevant circumstances of the person, the other parties and the act." This amendment also converted "may" into "shall" so as to make consideration of all relevant circumstances mandatory rather than just permissive.

Second, the committee modified the wording of proposed subsection 34(2)(e) of the bill, which originally referred to the "the size, age and gender of the parties to the incident." The committee thought that additional clarity would be helpful and rewrote that proposed subsection so that it now reads "the size, age, gender and physical capabilities of the parties to the incident." "Physical capabilities" were the words they added.

Third, the committee added a new text that reads: "any history of interaction or communication between the parties to the incident." I referred briefly to the text that speaks to the "history of any relationship between the parties"; "that incident" is the part that was added. The committee felt that this text could be interpreted narrowly to mean long-standing or intimate relationships. They wanted also to capture brief or more casual interactions between the parties, such as a single conversation that involved a threat. The additional clarity that the committee brought to the bill is very much appreciated.

[Translation]

In conclusion, honourable senators, Bill C-26 will pave the way for a new era of clarity and simplicity with respect to the provisions on self-defence and the defence of property. First, to be



found innocent of a crime, people should have reasonable grounds for believing that they or another person, or property in their possession, are being threatened with force. Second, they must act for the purpose of defending themselves and not to take revenge. Third, whatever actions are taken, they should be judged to fall within the range of what a reasonable person would have done in the same circumstances.

Bill C-26 also extends the time during which a property owner can arrest a person who commits an offence in relation to their property, given that, in the situation, it may not be possible for the police to intervene or the private security service to take appropriate action when the crime is being committed.

In general, Bill C-26 strikes the right balance between discouraging crime and confrontation and permitting Canadians to defend their basic interests when no other options are available.

I strongly recommend that all senators support the bill. These reforms are long overdue and represent a principled and measured response to emotional and complex situations.

[English]

**Hon. George Baker:** Honourable senators, I have just a few words concerning this particular bill. First of all, I want to congratulate Senator Di Nino for the very thorough, comprehensive and necessary speech that he gave. What one says in this place in introducing a bill at second or third reading on behalf of the government is considered to be government policy and the intent of the legislation. He was very careful to go over completely the intent of each section of the legislation.

Before I get to what I really want to say about this bill, the intent of the bill relates to a grocer in Toronto, a Mr. Chen, who was charged with an offence, but everyone knows about this. Before I get to that, changes have been made, as the honourable senator pointed out, in a section of the Criminal Code that deals with the defence of the person — in other words, self-defence.

When you look at all of the cases that are adjudicated now in our courts, it is well established that apart from a consensual fight, the act of self-defence has to be reasonable in that you are defending yourself against an aggressor. As the honourable senator pointed out, now there is a list of things. However, I am not too sure whether that list of things will really help matters.

For example, it says here that in determining whether the act committed is reasonable in the circumstances, the court shall consider the following: the size, age, gender of the parties in the incident — the size of the parties in the incident. If I were to select somebody that I would not want to get into a fight with on the other side, who are the most dangerous people over there?

**Senator Angus:** Senator Brazeau.

**Senator Baker:** As Senator Angus points out, I might choose Senator Brazeau, certainly, because he is an expert in the martial arts. I know what honourable senators are thinking: In boxing he is not, and that is true. As Senator Brazeau knows, in a boxing match, you can only hit with that side of a cushion. As you could

tell from that famous bout, Senator Brazeau is an expert in the martial arts. If he could only do what he wanted to do, but he could not.

• (1500)

**Senator Angus:** Hear, hear; we wish he could.

**Senator Baker:** I could tell he was going through all sorts of contortions trying to remain within the rules.

**Senator Carignan:** He did.

**Senator Brazeau:** Rematch!

**Senator Baker:** Having identified perhaps one of the two most dangerous people, the other person is, of course, very slight and weighs, I imagine, about 140 pounds. He has black belts and yellow belts; he has all kinds of belts. He exercises every day. I would hate to get into a physical confrontation with him; and that is Senator Boisvenu.

When you look at these provisions, and consider the size and age of the individual in the confrontation to determine whether it was reasonable that self-defence actually took place, I think it will foster some debate in committee as to whether that is reasonable.

Honourable senators, in terms of the purpose of the bill, it speaks to only one thing: an act that took place in a grocery store in Toronto. The bill states the following in the summary:

This enactment amends the Criminal Code to enable a person who owns or has lawful possession of property or persons authorized by them to arrest within a reasonable time a person whom they find committing a criminal offence on or in relation to that property.

His Honour is a professor of law who is well known down east and he knows about citizen's arrest under the Criminal Code. The last sentence of section 494(2) states, "may arrest without warrant a person whom he finds committing a criminal offence."

I repeat: "committing a criminal offence."

Senator White, former Chief of Police of the Ottawa Police Service, knows full well that that is also a limitation on police officers. Section 494(2) says, "committing a criminal offence." As His Honour knows well because he taught it many times, section 495 of the Criminal Code, under the heading "Arrest Without Warrant by Peace Officer," says, "may arrest without warrant a person whom he finds committing a criminal offence." It then goes on to limit a police officer's right. It says, "A police officer shall not arrest a person without a warrant for an indictable offence mentioned in section 553." That is another matter. It then says, "an offence for which the person may be prosecuted by indictment or for which he is punishable on summary conviction." That is a hybrid offence. One can be prosecuted either summarily or indictably for an offence punishable on summary conviction.

As Senator White knows, a police officer is extremely restricted under a warrantless arrest. Warrantless arrests and warrantless searches have been judged to be inherently unreasonable and unlawful. Only when it is authorized by law can you do it. Therefore, a police officer cannot do it.

I had a case at my desk by the New Brunswick Court of Appeal, *R. v. Dobrotic*. It said:

After being arrested in own **home** and charged with **impaired** driving and causing a disturbance, accused refused demand for blood samples and was charged with refusing to comply — Accused arrested only for **hybrid** and summary conviction offences and was not found in act of committing any offence — Accused successfully appealed from conviction for refusing to comply. . . — Subject to specified exceptions, s. 495(2) of Criminal Code prohibits warrantless **arrests** for summary conviction or **hybrid** offences unless the accused is found in act of committing them.

That is the law for police officers. Is the law for police officers being changed in this legislation? No. It is only changed for a citizen's arrest — not that much turns on that point. This was the case of Mr. Chen in Toronto.

Honourable senators, I have a copy of the judgment. I read the judgment and the facts of the case. A gentleman by the name of Mr. Anthony Bennett had come into a store and stolen some plants. He ran out through the door. Mr. Chen, the owner of the store, saw him. The next time Mr. Bennett came into the store, and I believe from reading the judgment that he was probably intent on stealing more plants, Mr. Chen confronted him and ran after him. They ran down the street and eventually into an alley. By this time, there were three people chasing the thief who had stolen from the store a week previously.

The police were called. Allow me to read to honourable senators what the police were confronted with. Paragraph 19 of *R. v. Chen* — Her Majesty the Queen and Jie Chen, Qing Li and Wang Chen; the Ontario Court of Justice, 2010, ONCJ 641 states:

The initial police response came in the form of police cruisers dispatched to the scene based on so-called 'hot spot' reports. It meant that officers in the vicinity had to give this the highest priority. As they made their way to the location, they were being updated. Based on four calls made to the 911 operator, they had information suggestive that up to 4 individuals were beating up one person, tying him up and placing him in the back of a white van. The first two officers on the scene, veteran Constable Mouter and newly minted Constable Smith, see a white van moving slowly towards them and about to make a turn. It stops when so directed by Mouter. Out comes a male from the driver side while two others exit from the rear of the van. Inside, the officers notice a male on the floor tied up . . .

Those were the facts. The officers arrested them all, every single one of them. Senator White will tell you that it is normal practice when you are called to the scene and you have tips by telephone. You do not know what is going on, so you arrest everyone in the place.

• (1510)

The judge, properly, makes mention of the big fuss that this created and the fact people across Canada were saying all sorts of derogatory things about the police in Toronto for arresting these people. The judge said, in paragraph 13:

Equally and in similar vein as the demand for Capt. Dreyfus' —

— this is a reference he made earlier —

— return from Devil's Island, persistent voices have demanded a stop to the 'persecution' of Mr. Chen this "innocent, hard working, honest businessman". There is even now talk of amending the section of criminal code on citizen's arrest.

Well, guess what? We are amending it.

The judge, in considering why the police officers would have arrested in this situation, said that dispatch has told them that there is an emergency. Two dispatch updates suggested potentially dangerous situations, likely a hostage in the back of a van being spirited away in broad daylight. Mouter and Smith place themselves in harm's way, unaware of what reaction to expect from the van's occupants when they direct the driver to stop. They indeed find someone in the back of the van, tied up and in apparent distress. The judge then says this:

Let us not beat around the bush. This is not the forum for political correctness. Mr. Bennett is black and the other three are Asians. In an urban multicultural environment such as ours one must live under a rock to assume that we all live in perfect harmony or that there are no elements of any ethnic groups, Caucasian or otherwise not dealing in drugs and violence. Toronto the Good like any other large city has an underbelly that does not lend itself to a tourism marketing jingle.

Last I heard the Toronto police do not work for the Toronto Tourism and Convention Bureau. In other words we do not pay them to see us in rose-coloured glasses. We pay them to be suspicious and to initially assume the worse in any situation.

He then says an important thing. This is in paragraph 23:

Once the police have laid the charges, our system has a series of checks and balances. Legally trained professionals, namely Assistant Crown Attorneys and NOT the police determine whether and which charges will go forward for prosecution.

It went forward for prosecution. Mr. Chen and the two other gentlemen, Mr. Li and Mr. Chen, were found innocent of any offence, as they should have been. The alleged thief was given 90 days in jail. That was the end of the matter.

Honourable senators, it happens every day that people are put in jail and arrested for crimes that they are eventually acquitted of. In the circumstances of this particular case, the judge went to great extremes to try to be fair to everybody. As honourable senators know, in the end it is the conscience of the community that determines matters like this. We have two standards, as honourable senators are well aware. One is whether something shocks the conscience of the community; the other is whether it brings the reputation of justice into disrepute. Disrepute to whom? To the general public. The feelings of the general public play into the determinations of the court.



That is the case. What is the reaction?

Well, in the other place, everyone agreed with the bill, except one member — I think it was the Leader of the Green Party. However, I noticed that when the interviews were done with the press and on the record, members of the NDP, the Liberals and the Conservatives suggested that perhaps the Senate could make amendments to the legislation. I have not examined what those amendments would be, but a vote did not take place at any stage of this particular bill. One wonders about this suggestion. You have the original wording in the Criminal Code, section 494, which states that, as I said before, someone may arrest a person without a warrant if they find them committing a criminal offence on or in relation to that property, if they make the arrest at that time or within a reasonable time after the offence is committed and if they believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest.

Then, as pointed out by Senator Di Nino, there is a qualification there for greater certainty:

A person who is authorized to make the arrest under this section is a person who is authorized by law to do so for the purposes of section 25.

All section 25 says is, if it is to be provided for in law.

It will be provided for in law now because that is the change that is being made.

I suspect, honourable senators, that there will be some interesting witnesses before the Senate as to whether or not any amendments should be considered to this legislation. I am sure that the police associations of Canada will be interested to know what happens to their authority under section 495 of the Criminal Code, as I referenced earlier, in that they are not permitted under section 495 to arrest anyone unless they find them committing an offence or unless they have committed an indictable offence in the past. If they have reasonable grounds to believe this, the police can do what they call investigative detention. However, that is rather complicated to do. There must be what they call exigent circumstances or a problem with the identity of the person being detained. As Senator Joyal is probably thinking now, what happens to our Charter rights under this proposal? Sections 10(a) and 10(b) of the Charter say as follows:

Everyone has the right on arrest or detention —

It does not say the word “immediately;” “forthwith,” perhaps. I am getting cloudy in my old age, but there is a word there that has been interpreted by the Supreme Court of Canada to mean that someone has a right to counsel immediately. You cannot just go out and detain someone without giving them rights to counsel immediately. You are extending, under this law, new arrest rights, but section 494 still demands that it be Charter compliant. The person making the citizen’s arrest must give the person rights to counsel.

I would be interested in knowing what the police forces of Canada have to say about this clause. I asked whether section 495 of the Criminal Code was examined in committee in the other place, and they told me no reference was made to 495 and to the rights and powers of police officers.

• (1520)

His Honour knows from reading case law, which I know he does in his spare time, as I have been doing for 40 years, there are many provisions under the law that lead to someone being arrested or detained unfairly. As provided for in our Customs Act, when someone from certain countries passes through Toronto’s Pearson International Airport, periodic checks are made. In other words, the person is pulled aside, asked how they purchased their ticket, who paid for it and what they have in their luggage, and then, if deemed necessary, they are handcuffed while their luggage is searched. That is all because of section 98(1) of the act, which gives this power if an official suspects non-compliance with the law. Many of those cases arise, but one wonders what the extent will be of this particular move.

I appreciate the words of Senator Di Nino, because he has put this into context. He has explained the intent, and it is not to go as far as some people would think if they knew the facts as given by the judge in the case at hand that caused this legislation to be brought forward. We look forward to it being dealt with in committee.

**Hon. Anne C. Cools:** Would the Honourable Senator Baker take a question?

**Senator Baker:** Yes.

**Senator Cools:** I have been listening to Senators Baker and Di Nino with care. I thank them for their interventions.

Are these new powers that would be created by Bill C-26, or is this bill declaratory of some ancient common law powers of self-defence? I believe that these are totally new powers that would be created by this bill. If, in fact, these are new powers that are to be created by this bill, what is the legal ground on which they are proposed to stand?

**Senator Baker:** First, the power does not reside in the common law. I was looking for the New Brunswick case that I cited in which the Court of Appeal made reference to that fact.

I believe that it is as Senator Di Nino outlined. He was very clear in his explanation of the purpose of the legislation. Let us be clear on this: When you look at decisions of the court on a new bill such as we are discussing here today, you see the names of people who have introduced legislation across the way. His Honour is quoted in one case. He spoke or supported a government bill. Senator Stratton is quite often referred to. As I mentioned before, I imagine that there are people in jail wondering who this fellow Senator Stratton is who caused them to be there. Judges are quoting senators in sentencing.

It is important that when judges have to interpret legislation they look not only at Driedger’s principle of statutory interpretation and the book *Statutory Interpretation* by Ruth Sullivan. They must try to discover the intent of the legislator, and invariably they go to the Senate. Some people have suggested that the Senate is quoted more than the House of Commons in case law because the Senate is the final authority, but I do not think that is entirely correct. I rather suspect, as some justices have

referenced, that the remarks made in the Senate are much more sensible and based more on reasonableness than are those made in the other place, where they are based on politics in many respects.

Knowing the existing law and how it has been applied, upon reading this bill I would find this to be an incredible extension of authority, overly broad and something we must be careful of. However, if one listened to the intent as explained by Senator Di Nino, who would have received his information right from the Department of Justice, who would have received it perhaps from provincial authorities across the nation, as they normally collaborate in the drafting of these laws, one would find this to be a reasonable piece of legislation.

(On motion of Senator Tardif, debate adjourned.)

## INCOME TAX ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Banks, for the second reading of Bill S-205, An Act to amend the Income Tax Act (carbon offset tax credit).

**Hon. Daniel Lang:** Honourable senators, I would like to share my thoughts on Bill S-205, which recommends adding a carbon offset tax credit to the government's arsenal of tools to meet our environmental responsibilities.

Before considering the bill, we must ask what steps the federal government has already taken to meet these responsibilities and what initiatives are under way that will allow Canadians to maintain their standard of living while ensuring that our environment is taken care of.

Senator Carignan outlined many of the policies and programs that the Canadian taxpayer has and is financing to meet national and international environmental obligations. The long list of initiatives in which the federal government has been involved with the provinces, the territories and the business community should give members comfort that serious steps have and are being taken. One need only look at the Clean Energy Fund, which is investing just under \$800 million over the next five years in research, development and demonstration projects to advance Canadian leadership in clean energy technologies.

It should be also pointed out that part of the Clean Energy Fund goes toward carbon capture and storage projects. This, honourable senators, is truly a Canadian success story. One of the world's largest carbon capture and demonstration projects is in Weyburn, Saskatchewan. This technology will significantly assist in reducing global greenhouse gases from the production and use of fossil fuels. These projects will give Canada the opportunity to continue to be a world leader and gives us the ability to sell this technology to countries that are also conscious of their emissions.

• (1530)

Additionally, major strides have already been taken with the auto industry and the United States to redesign our vehicles and exhaust systems.

It should be pointed out that it is projected that the average greenhouse gas emissions from the 2016 Canadian fleet of new cars and light trucks will be reduced by 25 per cent compared to those sold in 2008.

I would also like to point out the great strides that are being taken in the field of natural gas vehicles. According to the Canadian Natural Gas Vehicles Alliance, the use of natural gas reduces emissions by an estimated 20 to 25 per cent compared with conventional transportation fuels. This technology is most useful in the tractor trailers we see on the highways every day.

In addition to these policies, I think it is important to highlight the federal government's commitment to assisting in hydro developments, and I refer specifically to the province of Newfoundland and my region of Yukon. We should direct our attention to the decision to have Canada's coal generating plants meet a lower greenhouse gas emission standard within the next decade.

Countless initiatives are under way, including ongoing changes to the building codes and upgrading of our appliance standards. Conservation innovations are taking place throughout the country. Major research and development is taking great strides in curbing the pollution of the oil sands.

Honourable senators, there are many accomplishments Canadians can be proud of, and we all have a responsibility to let other parts of the world know about our successes.

Canada boasts one of the cleanest electricity systems in the world with three-quarters of our electricity supply emitting no greenhouse gases at all.

One of the turning points in the world's commitment to deal with the greenhouse gas emissions has been the inclusion of India, China and the United States, which are among the three highest emitters in the world, to the signing of the Copenhagen agreement. Canada was there, and we made our commitment to meet our obligations to reduce greenhouse gas emissions. These commitments are to reduce our emissions by 17 per cent compared to 2005 levels.

It should be pointed out that the latest greenhouse gas emission reports from April indicate that Canada's overall greenhouse gas emissions have been reduced by 6.5 per cent from the 2005 levels, and together with the provinces, we are already a quarter of the way to reaching our 2020 target.

Honourable senators, the point is that Canadians are working to meet our responsibilities.

The member who sponsored this bill described his bill as one small step and minimized the implications it will have. It was interesting to hear Senator Carignan's assessment that this bill would leave costs open-ended with no limits.



I think we would all agree this is irresponsible and would put the taxpayer in harm's way.

Senator Raine and Senator Brown questioned the science that substantiates the basis for this bill and the premise that the world is facing a catastrophe if we do not enact it. In Senator Mitchell's speech to this bill he went on further to say that those who do not agree with him are wilfully ignorant. As a member of the Senate, I take offence to this presumptuous and dismissive attitude. To infer that my colleagues do not care as much about the environment as he does is very misleading.

As a successful farmer, Senator Brown's livelihood depended on his ability to till the land year after year, and he had a responsibility to take care of the environment to ensure that he could farm every year.

Senator Raine has spent her whole life outdoors and, as we all know, is one of our gold medal Olympians.

I can assure all honourable senators that my colleagues care very much about the environment, not unlike anyone else in this chamber.

I would say to my friend on the other side of this chamber that he should stand back and be prepared to listen to another point of view, be respectful if he disagrees and at the same time be prepared to consider perhaps changing his position when the facts are presented.

We need to be able to have a conversation about these issues. However, I would also like to draw your attention to a well-known British environmentalist, James Lovelock. In a recent interview, he commented on the position that he took in respect to global warming.

He said:

The problem is we don't know what the climate is doing. We thought we knew 20 years ago. That led to some alarmist books — mine included — because it looked clear-cut, but it hasn't happened.

He went on to further state:

The climate is doing its usual tricks. There's nothing much really happening yet. We were supposed to be halfway toward a frying world now . . .

The world has not warmed up very much since the millennium. Twelve years is a reasonable time . . . it (the temperature) has stayed almost constant, whereas it should have been rising — carbon dioxide is rising, no question about that.

Honourable senators, this demonstrates the spectrum of opinions that exist and how positions are changing. The debate on the cause and implications of climate change is not going to be finalized any time soon. One only has to look at my region of Yukon. Animals like the sabre-toothed tiger were extinct due to climate change long before the industrial revolution. In fact, if you look back in time, our Parliament Buildings are built on a

region that was once covered by glaciers. These glaciers melted thousands of years ago. As James Lovelock stated, climate change takes place all the time, not necessarily with man's help.

However, at the same time, I do not think anyone will argue that we should do everything we can to mitigate greenhouse gas pollution and its effect. However, we have to ask ourselves whether this bill before the Senate is necessary to accomplish this. This bill does not reduce pollution. It allows people to get a tax credit for continuing to pollute. There is no incentive in this bill to reduce consumption.

At the end of the day, I believe this bill can legitimately be described as a backdoor carbon tax. Do Canadians want to pay more taxes? I say the answer is very clear: No.

In the last federal election, the majority of Canadians gave their answer, and they want to maintain a low-tax environment.

I should also point out that in recent provincial elections the economy has been in the forefront of Canadians' minds, and that is what these elections were fought on. Canadians do not want more taxes.

Honourable senators will also have to take into consideration Canada's financial future that we will face if we bring in a backdoor carbon tax measure such as this.

One only has to look at the financial crisis that the European Union is facing and ask if we want Canada to go down that road. I think the answer, honourable senators, is no.

One fact that the sponsor of this bill does not bring into the debate is the cost of a barrel of oil today. During the worst part of this past recession, the lowest market value for a barrel of oil went just below \$80 per barrel, a far cry from the \$20 a barrel during the worst times in past recessions.

I raise this fact because the days of cheap energy are over. The reality is that without additional taxes, the consumer is taking steps towards conservation to lower his or her costs, which in turn will lead to lower greenhouse gas emissions. This simple principle applies to the business community as well.

Honourable senators, conservation is the rule of the day. It is good economics, and it is called common sense. I think most Canadians would agree that they are doing their part and are well on their way to meeting their individual and collective environmental responsibilities.

I would also say to all of you that most Canadians would say there is no catastrophe around the corner. They would further say the measures contained in this bill are not necessary.

• (1540)

**The Hon. the Speaker *pro tempore*:** Before the Honourable Senator Lang began to speak, this motion had been adjourned in the name of the Honourable Senator Mockler. Did the Honourable Senator Mockler say whether he would like to have the matter adjourned in his name following Senator Lang's intervention?

**Senator Tardif:** Question.

[Translation]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, we have discussed this, and I believe we are ready to send the bill to committee for study, even though the debate has been adjourned. We are ready for the question.

[English]

**The Hon. the Speaker pro tempore:** It has been moved by the Honourable Senator Mitchell, seconded by the Honourable Senator Banks, that Bill S-205, An Act to amend the Income Tax Act (carbon offset tax credit) be now read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

**The Hon. the Speaker pro tempore:** Carried, on division.

(Motion agreed to and bill read second time, on division.)

#### REFERRED TO COMMITTEE

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Tardif, bill referred to the Standing Senate Committee on National Finance, on division.)

[Translation]

#### STUDY ON AIR CANADA'S OBLIGATIONS UNDER THE OFFICIAL LANGUAGES ACT

##### THIRD REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Mercer, that the third report of the Standing Senate Committee on Official Languages entitled: *Air Canada's Obligations under the Official Languages Act: Towards Substantive Equality*, tabled in the Senate on March 13, 2012, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the President of the Treasury Board being identified as the minister responsible for responding to the report.

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, the debate on this report is already at day 14. However, since I have not had time to prepare my notes for my speech on this important report, I ask for adjournment for the remainder of my time.

(On motion of Senator Carignan, debate adjourned.)

#### FOOD BANKS

##### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Robichaud, P.C., calling the attention of the Senate to the importance of food banks to families and the working poor.

**Hon. Fernand Robichaud:** Honourable senators, the Deputy Leader of the Opposition wanted to postpone the debate, because I had not informed her that I wanted to speak to this issue. I therefore have only a few minutes left.

As I said on April 26, hunger is an ongoing problem. Every month, close to 90,000 Canadians — children, single-parent families, single people, poor workers and seniors — receive help from food banks.

This is Hunger Awareness Week, an initiative of Food Banks Canada. As Senator Mockler indicated, fasting for a day can help us to be more aware of what poor people and the children of poor families in this country experience day after day.

Honourable senators, we can fast for a day to show our support. We can even contribute to a food bank in our community. However, we must ask ourselves whether we are just doing it to ease our consciences and whether we will then just forget all about why we fasted. I will leave you to your thoughts on that.

Measures are needed at all levels of government to attack the root causes of hunger and poverty. In this regard, I invite you to consult the recommendations contained in the 2011 Food Banks Canada report and in the Eggleton-Segal report from the Standing Senate Committee on Social Affairs, Science and Technology entitled: *In From the Margins: A Call to Action on Poverty, Housing and Homelessness*. The purpose of these recommendations is essentially to eliminate poverty.

What we also need to remember and what gives us hope is that many individuals continue to believe in helping one another, in sharing with others, and that even more people are performing acts of great compassion and generosity in order to make a difference in their communities. Finding a long-term solution requires political will, political courage and compassion for others, including the poor of our country.

(On motion of Senator Moore, debate adjourned.)

#### PREVENTION AND ELIMINATION OF MASS ATROCITIES

##### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire, calling the attention of the Senate to Canada's continued lack of commitment to the prevention



and elimination of mass atrocity crimes, and further calling on the Senate to follow the recommendation of the United Nations Secretary General in making 2012 the year of prevention of mass atrocity crimes.

**Hon. Roméo Antonius Dallaire:** Honourable senators, I began my presentation some time ago. I would now like to continue my speech on this subject, which, I believe, is particularly relevant.

[English]

The theme is Canada's continued lack of commitment to the prevention and elimination of mass atrocities and making 2012 as the year of prevention as requested by the United Nations.

Eighteen years ago, the United Nations eviscerated my mission in Rwanda, rendering it incapable of responding to the impending genocide. That catastrophic mission was the product of the unpreparedness of the world's countries to act in the face of genocide. Therefore, it is not lightly that I bring to the attention of honourable senators an issue of the highest importance not only to Canada's security and morality but to its international stature.

Our government still does not have the necessary tools within its foreign policy and defence architecture to take principled and informed action on potential and precipitating mass atrocities — genocide, war crimes, crimes against humanity and ethnic cleansing.

It is imperative that we take immediate action to remedy this lack of capacity. We cannot and must not ignore the progression of history and the demands of our time.

[Translation]

Remember, it was the unimaginable horrors of the Holocaust that demanded we vow "never again." That promise gave rise to the resolution condemning the crimes against humanity in 1946 and the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions in 1949.

[English]

Human frailty, fear and ignorance conspired against these noble laws. Our institutions reflected the fact that we were too insecure, impotent and afraid to do anything about threats that we treated as unknowable and untreatable — primordial evils. We acted as though if we ignored them, they would go away.

What I saw with my own eyes in Rwanda cannot be ignored. The ongoing conflict in the Democratic Republic of the Congo, from which I have recently returned and which is a direct result of genocide in Rwanda, shows us that atrocities do not disappear; they escalate.

These missteps once again reinforce the necessity of developing mechanisms for and of the prevention and elimination of mass atrocities.

• (1550)

Mechanisms such as the international criminal tribunals of Rwanda, Yugoslavia and Sierra Leone, which by 1998 were joined by the permanent International Criminal Court in The Hague, are working to eliminate impunity.

[Translation]

These mechanisms are our common heritage. We were at the forefront of establishing the International Criminal Court. And we are the ones who developed the responsibility to protect, which affirms:

That every State has the responsibility to protect its populations from mass atrocity crimes, that the international community has the responsibility to encourage and assist individual States in meeting that responsibility, and that if a State is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN Charter.

Responsibility to protect is now deeply embedded in the 2005 World Summit Outcome document, multiple Security Council and General Assembly resolutions, and the UN's Joint Office on Genocide Prevention and the Responsibility to Protect created by Kofi Annan in 2004.

What was only an idea 10 years ago is a reality today. As UN Secretary-General Ban Ki-moon recently said, "Responsibility to protect is here to stay."

[English]

Honourable senators, I am not simply asking you to be moved because you find egregious violations of human rights against fellow human beings detestable. I am calling on you to take notice of the global changes that necessitate us to view the prevention of mass atrocity crimes as central to our own interests. The issue of mass atrocities is moving governments and international organizations to action. There is progress. The question is: What about us?

Since 2005, mass atrocities have been central to the mobilization of the African Union and the UN in Sudan. I was recently there, including South Sudan and, of course, Darfur. More recently, they were the central determining factor in the 2011 UN-sanctioned NATO mission in Libya, which we commanded, and the French UN mission in Côte d'Ivoire, which ended in success. Both were supported by the Arab League and the African Union respectively.

We know mass atrocities are moving governments because we sent our young men and women to Libya. Yet, despite this, we are unable to confront these challenges in a principled and structured way. We have not taken any steps to institutionalize the prevention and elimination of mass atrocities within our foreign policy and defence strategies. Instead, we treat these crises as one-off situations that can be responded to on an ad hoc basis, depending on what other countries do and want to do. Essentially, we are going at it as a crisis management and not as a deliberate process within our institutions to give them the tools to be proactive and probably far more effective.

Internal conflicts are an unfortunate but real symptom of the shift from dictatorships to democracy. They are also characteristic of failed or failing states. We know this from experience and a great deal of analysis, particularly over the last twenty years since the end of the Cold War. Insofar as people continue to liberate themselves from the grips of authoritarian tyranny and insofar as certain states remain unable to fulfill their function, there will be violent conflict; and where there is violent conflict, there shall be mass atrocities, abuse of human rights and crimes against humanity. It is the nature of civil wars. It is the nature of failing states and of those who will achieve maintaining power at the destruction of their own people.

This has been proven time and time again, and it continues to be the case today. Look at Syria. We cannot in good faith preach the gospel of human dignity and democracy and then turn our backs on those who suffer the most extreme forms of persecution. To do so would not only be a disservice to the victims of mass atrocities but also a disservice to ourselves and our ethical standing in respect of human rights — an element that is a fundamental law of our nation.

[Translation]

Mass atrocities undermine global peace and security. They increase the likelihood of terrorism, create breeding grounds for diseases and pandemics, destabilize regions and spread conflict. These are matters of primary concern to any state, but especially to ours, which has a strong tradition of international leadership. We cannot allow ourselves to fall into a reactive posture. The future must not shape us; we must shape the future.

At the same time, we cannot be blind to the difficulties of preventing and eliminating mass atrocities. There is no quick fix. Our forces served honourably in Libya; we should be proud of what we did. We saved lives and helped a fledgling democracy.

But we need to ask ourselves if we could have done more and if we should be doing more right now. The protection of civilians does not begin and end with establishing a no-fly zone and hoping for the best.

Similarly, we must expand our sights beyond the costly and weighty choice to approach each crisis through the lens of intervention. Atrocities continue to happen in Sudan because the UN lacks the equipment to deploy the forces it already has on the ground. Should we be contributing more there? Are we doing enough with our diplomatic corps? We cannot approach these difficult and complex issues intelligently and effectively until we have a coherent policy for the prevention and elimination of mass atrocities. If we cannot have a leadership role, then let us participate in some other way.

[English]

Other countries around the world are already making the necessary changes to their institutions. Notably, President Obama recently released a presidential directive making the prevention of genocide and other mass atrocities a core national security interest and moral responsibility for the United States. It called for the creation of an interagency atrocity prevention board

in the National Security Council and an interagency study for the development of an atrocity and prevention policy. It is a whole-of-government policy that he is seeking.

The U.S. Army Peacekeeping and Stability Operations Institute responded with a mass atrocity prevention and response option called the MAPRO strategy.

I request an extension, if I may.

**The Hon. the Speaker pro tempore:** The honourable senator has an extension of five minutes.

**Senator Dallaire:** Two weeks ago, President Obama announced that the primary pieces of their atrocity and prevention strategy are coming together. The main component is the Atrocities Prevention Board, which was accompanied by a number of concrete and innovative policies and mechanisms for the prevention and elimination of mass atrocities.

I do not have to impress upon honourable senators the significance of steps taken by the Americans, our closest allies, our partners in NATO and the predominant military and economic power in the world today, with whom we have conducted so many operations in the past.

I do want to impress on honourable senators that they took these steps in response to the demands of our times and through the consultation of recommendations from reports prepared by the Genocide Prevention Task Force in the U.S. as well as the Will to Intervene report in Canada. While the Will to Intervene report has found success at the highest levels of government in the U.S. it has received little to no response at the federal level here. The Will to Intervene report and recommendations came out of the Montreal Institute of Genocide and Human Rights Studies at Concordia University.

• (1600)

Honourable senators, are we to be blind to the pressing demands of our time and deaf to the recommendations of experts within our very borders? Shall we ignore what experience has taught us and what each coming day confirms? The problem of mass atrocities will not go away until we direct our efforts toward the prevention and elimination of them. Rwanda did not go away; the same is true for the crimes occurring today in Sudan, in the DRC and in Syria. God knows how many others are being lined up. We cannot ignore these situations and hope that they will go away or that their effects will not reach us. We cannot stumble into these situations with the hope that someone else will determine our foreign policy response. We cannot approach these challenges with the same mindset and tools that we have used in the past, that is, “ad hoc-ing” it and crisis managing it. To do so would not only be irresponsible, it would also be putting people, and the success of the mission, clearly at risk.

Because of time, I will go to my final comments. I have four recommendations that are part of the text, but I will go to my concluding remarks.

We must not undermine Canada’s heritage by failing to uphold the humanitarian values that we have worked so hard to establish. We must move beyond the ad hoc approach that has



characterized the Canadian response to mass atrocities thus far and develop the necessary tools within our foreign policy and defence architecture to take principled and informed action toward the prevention and elimination of mass atrocities. We have been in it since 1991. Surely we can bring all of this together after two decades of critical involvement.

In doing so, we shall not only be meeting our international responsibilities, we shall be re-establishing control over our own foreign policy and retaking our position as a global leader in the pursuit of international peace and justice.

The UN Secretary-General's Special Adviser on the Prevention of Genocide, diplomat, author, eminent scholar and friend, Francis Deng, was recently in Ottawa to help me mark the National Day of Remembrance and Action on Mass Atrocities. In discussing the situations in Libya and Syria, he concluded with these wise words:

But it also goes to show that prevention before situations escalate is the best course of action. Because if you engage

governments early on, before they become defensive, much can be done to avert this critical choice between either military engagement or indifference.

Deciding not to act is a decision.

Honourable senators, I have spoken to a great deal today, and you are probably wondering, "What now?" As a modest first step and with Dr. Deng's message in mind, I believe we should take the Secretary-General's recent challenge and make at least 2012 the year of prevention and ask that the Minister of Foreign Affairs consider moving down a road similar to the one President Obama has established with regard to mass atrocities and the prevention thereof.

(On motion of Senator Tardif, for Senator Eggleton, debate adjourned.)

(The Senate adjourned until Thursday, May 10, 2012, at 1:30 p.m.)

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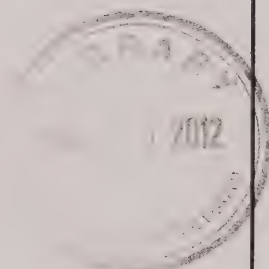
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OFFICIAL REPORT  
(HANSARD)

Thursday, May 10, 2012

The Honourable NOËL A. KINSELLA  
Speaker



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## THE SENATE

Thursday, May 10, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATOR'S STATEMENT

#### ROLLING RAMPAGE ON THE HILL

**Hon. Yonah Martin:** I rise today to remind honourable senators of an event that took place on April 26, 2012, right here on Parliament Hill. The seventh annual Rolling Rampage on the Hill was co-chaired by the Honourable Senators Di Nino and Munson in collaboration with the Canadian Foundation for Physically Disabled Persons. I wish to extend special thanks to all senators, MPs and staff who took part this year.

The exciting day consisted of a wheelchair relay race between parliamentarians, followed by a wheelchair relay race of elementary schoolchildren from the Ottawa-Gatineau region and, finally, a 10-kilometre international road race of 13 elite disabled athletes competing for a prize purse of \$30,000.

[Translation]

More than 2,000 elementary students from about 50 schools joined us in watching the victory of two great Canadian athletes, Josh Cassidy and Diane Roy, who also won the race last year. I am proud, as a Canadian, to see my country produce such high-calibre, phenomenal athletes.

[English]

Rolling Rampage is not only a day of competition; it is a day of celebration for everyone to gather and applaud the commitment and self-discipline of disabled athletes.

[Translation]

They are a living symbol of determination and strength and they are an inspiration to us all. I am very pleased that the annual Rolling Rampage gives us an opportunity to showcase world-class elite athletes.

[English]

I would also like to recognize the Korean embassy for sponsoring this event and preparing two teams to compete in the relay. The Republic of Korea was the only embassy present this year. Its demonstrated cooperation in advancing good causes serves as a promising prelude to the fiftieth anniversary of diplomatic relations between Korean and Canada in 2013. Hyundai also sponsored a Korea athlete, Mr. Gyu Dae Kim, who finished fifth in the highly competitive race.

[Translation]

I am happy and honoured to have been asked to co-chair Rolling Rampage in 2013 with Senator Munson. The event was

held in Toronto for five years and last year was the first year it was held in Ottawa, the nation's capital. This year, we designated three new co-chairs to reflect the growing popularity of this important activity.

[English]

Lastly, I would like to acknowledge one of the greatest champions of people with physical disabilities and the visionary behind the Rolling Rampage on the Hill, our former colleague, the one and only Honourable Vim Kochhar, and his wonderful team who are so dedicated and tireless in bringing together the annual Rolling Rampage on the Hill.

## ROUTINE PROCEEDINGS

### STUDY ON USER FEE PROPOSAL

PASSPORT CANADA—FOURTH REPORT  
OF FOREIGN AFFAIRS AND INTERNATIONAL  
TRADE COMMITTEE PRESENTED

**Hon. A. Raynell Andreychuk,** Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Thursday, May 10, 2012

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

#### FOURTH REPORT

Your Committee, to which was referred the document "*Passport Canada's Fee-for-Service Proposal to Parliament*, dated March 2012, pursuant to the *User Fees Act*" has in obedience to the order of reference of Thursday, March 29, 2012, examined the user fee Proposal and, in accordance with section 5 of the *User Fee Act*, recommends that it be approved.

Respectfully submitted,

A. RAYNELL ANDREYCHUK  
Chair

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Andreychuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)



• (1340)

[English]

## BREAST DENSITY AWARENESS BILL

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-314, An Act respecting the awareness of screening among women with dense breast tissue.

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

### WINTER MEETINGS OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, FEBRUARY 23-24, 2012—REPORT TABLED

**Hon. Francis William Mahovich:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association respecting its participation at the Eleventh Winter Meetings of the Organization for Security and Co-operation in Europe, held in Vienna, Austria, from February 23 to 24, 2012.

[Translation]

## FRENCH EDUCATION IN NEW BRUNSWICK

### NOTICE OF INQUIRY

**Hon. Rose-Marie Losier-Cool:** Honourable senators, pursuant to rules 56 and 57(2), I give notice that two days hence:

I will call the attention of the Senate to the current state of French language education in New Brunswick.

## ACCESS TO JUSTICE IN FRENCH

### NOTICE OF INQUIRY

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I give notice that two days hence:

I will call the attention of the Senate to access to Justice in French in Francophone Minority Communities.

## QUESTION PERIOD

### ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

#### POUNDMAKER FIRST NATION

**Hon. Lillian Eva Dyck:** Honourable senators, Poundmaker Cree Nation, located near Cut Knife, Saskatchewan, holds its elections under a community custom code. Poundmaker has exercised its inherent customary laws for many decades and has never been subject to the Indian Act for selection of its chief and council. Their method worked fine for many decades because it was respected and implemented by the electorate.

Recently, however, there has been resistance to abide by the long-standing custom of disciplining and removing elected officials. There have been ongoing problems of governance with the Poundmaker chief and council and, in July 2011, after a six-year investigation by the RCMP, a total of 46 charges for fraud, theft and breach of trust were laid against nine individuals, including the current chief and several councillors.

My question is for the Leader of the Government in the Senate. Band members have made numerous calls to Aboriginal Affairs and Northern Development Canada and written to the minister asking for help to resolve the situation over the past 10 years. With criminal charges laid against the chief and several councillors in July 2011, why did the Regional Director General of AANDC not conduct an assessment of the situation?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question, however, I am not certain whether or not this matter is before the courts. It is obviously in regard to a legal matter. Therefore, I am not in a position to comment, but I will take the question as notice and seek a written response.

**Senator Dyck:** Honourable senators, I have some supplementary questions that perhaps the leader could take as written notice and also follow up on.

Poundmaker has a written election code that states that the removal of a chief and councillor can occur if they abuse their fiduciary obligation to the band membership and are convicted of an indictable offence, such as fraud.

On April 16, 2012, the current chief and several councillors pled guilty to charges of fraud and theft under the Criminal Code of Canada. Despite demands by band members for the guilty parties to resign, they have not. Worse yet, the department continues to recognize the guilty parties as legitimate council members.

Why have the minister and the department continued to recognize the guilty parties as legitimate council members? Why has the minister not taken action to remove the names of the guilty parties as the officially recognized chief and council members?

**Senator LeBreton:** I thank the honourable senator for that additional information. This is a matter specific to one band and I will, of course, include the honourable senator's further questions in my request for a written response.

#### FIRST NATIONS ELECTIONS

**Hon. Lillian Eva Dyck:** These questions are band specific, but they do apply to a number of bands across Canada. When First Nations bands contact AANDC with custom election complaints, why does the department not explain the Custom Election Dispute Resolution Policy to them, or at least give them a copy of it? Why does the minister or the department not outline, as standard procedure, the actions that the community can undertake, instead of telling them the department can do nothing?

**Hon. Marjory LeBreton (Leader of the Government):** Again, the honourable senator is referring to documents specific to what is going on in that particular band. I am not privy to those documents. I doubt that most of my colleagues here in the Senate are even aware of the situation. I appreciate the question and will seek a written response to all of the issues raised.

**Senator Dyck:** Honourable senators, the last question is more general in that it applies to all bands that hold custom code elections and that is, if I remember correctly, about 340 First Nations; it is not just one.

It is truly ironic that we passed Bill S-6, the First Nations elections bill, just a few weeks ago. The Minister of Aboriginal Affairs and Northern Development insisted on retaining clause 3(1)(b) that allows the minister to order a First Nation having protracted leadership disputes to come under its provisions. Yet, the minister has refused to intervene in the protracted Poundmaker leadership dispute, despite being asked to do so repeatedly. No doubt members of the Poundmaker band feel abandoned by the minister.

How can the department argue that it needs the legislative power within clause 3(1)(b) in Bill S-6 to intervene on the basis that it does not want to abandon First Nations having protracted leadership disputes when it has most certainly abandoned Poundmaker?

**Senator LeBreton:** Honourable senators, Senator Dyck commented that the minister has refused to meet. I will have to get the other side of the story. We do have a minister who has been very engaged in the various files in his department, and I am quite certain that much of what the honourable senator has asked will receive reasonable responses. I will add the further questions to my inquiry.

• (1350)

**Senator Dyck:** I thank the leader for that. Also, could the honourable leader ask the department to respond to how many other First Nations have been abandoned by Aboriginal Affairs and Northern Development Canada when asked for help? How many other First Nations have asked the department for help in resolving protracted leadership disputes, and how many have been turned down?

**Senator LeBreton:** Again, honourable senators, I think it is unfair to say that any band has been "abandoned." That is perhaps the honourable senator's take on it. I believe that there will be a very serious response to her questions prepared and I do not want to impugn motives on either side until we get that response.

#### JUSTICE

##### FORMER MINISTER HELENA GUERGIS LAWSUIT

**Hon. Wilfred P. Moore:** Honourable senators, my question is for the Leader of the Government in the Senate. The Prime Minister is choosing outside counsel, Robert Staley, to represent him in the Helena Guergis lawsuit. In dollars, what is the hourly rate for this counsel?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. This is a practice that has been followed for many years. I do not have the information that the honourable senator requests, but I will be happy to take the question as notice.

**Senator Moore:** Will the government commit to making this information public?

**Senator LeBreton:** Honourable senators, as I have said in the past, I can make no commitments; I will make no commitments. I will simply make an inquiry on the senator's behalf.

**Senator Moore:** Honourable senators, I have a supplementary. Can the Leader of the Government tell the chamber if Mr. Staley donated \$1,100 to the Conservative Party of Canada in both 2008 and 2009, and whether this was a consideration in hiring him?

**Senator LeBreton:** Honourable senators, as a government and as a political party, we took very vigorous steps to change the donation practices. The limit that any one individual can give to a political party is \$1,100. People in this country are free to give to whatever political party they wish. Many donations are given to political parties on both sides. I would dare say that is the beauty of this kind of donation: \$1,100 would not influence anyone or any decision. It would be simply a statement of a person's desire to give money to a political party. I think the intent of the senator's question is quite unfair.

**Senator Moore:** Let me try something else, honourable senators. Maybe the honourable senator will consider this a bit fairer.

The Prime Minister referred to the RCMP unsubstantiated rumours about former cabinet minister Guergis, as were provided to him by a private investigator. The RCMP later stated that there was no evidence of wrongdoing.

What were the costs incurred by the RCMP for the investigation of this frivolous case?

**Senator LeBreton:** Honourable senators, the Prime Minister did as any prime minister would in such a situation. When information was provided to the Prime Minister, he simply referred the information to the appropriate authorities — nothing more, nothing less.



The RCMP work without interference. With all of the investigations that the RCMP conducts on many fronts, it would be quite impossible for them to narrow it down to a dollars-and-cents exact value. However, in this case, the Prime Minister acted totally appropriately, and the RCMP apparently did as well.

**Senator Moore:** Honourable senators, I was not questioning the appropriateness of the actions of the Prime Minister. I want to know what the costs incurred by the RCMP were in the investigation of that matter. I would like to have that information.

**Senator LeBreton:** Honourable senators, there were never any files opened, by the way. I do not believe the question is in order. I am not responsible, and I do not think the RCMP would agree to provide such information. I stand to be corrected, but the RCMP is an arm's-length organization, and I do not think it would be proper for any one of us to inquire of the RCMP what the costs are for any of their investigations on any individual of any political party, past or present.

**Senator Moore:** I have a supplementary, honourable senators. With no evidence of wrongdoing, Canadians should know why the RCMP wasted its time and resources on this matter when it could have been dealing with other actual crimes in the country.

I ask the leader: Will she table the letter sent to the RCMP outlining the allegations against former Minister Guergis?

**Senator LeBreton:** First, honourable senators, when matters are turned over to the RCMP, they are obligated to investigate. That is what the RCMP does. The ultimate decision is for them to decide.

I believe the Prime Minister acted properly in this matter, and I will make no such commitment to answer the question or table any letter.

[Translation]

## CANADIAN HERITAGE

### NATIONAL ARCHIVAL DEVELOPMENT PROGRAM

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. For the past 26 years, Library and Archives Canada has been supporting over 800 local Canadian archives working to preserve and make available unique archival documents pertaining to the history of Canada and its people.

Since 2006, that financial support has been distributed through the National Archival Development Program, which was shut down by the government on April 30.

As the chair of the Canadian Council of Archives stated in a letter to the Minister of Canadian Heritage, this decision will have a far-reaching and devastating impact on the Canadian archival community and its ability to preserve our nation's history.

Why did the government choose to cut the long-standing funding that our national archives need to continue the important work of preserving and sharing Canada's heritage?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I am sure the honourable senator has noticed, as I have, much to my chagrin at times, that we have moved into a new age of technology, which some of us still find difficult, but are managing.

Library and Archives Canada is moving into the digital age, and more services will be available to Canadians online. The evidence thus far is that Canadians are utilizing and accessing information to a much higher degree than they ever did in the past.

This is very good for Canadians, who will be able to access historical content regardless of where they are located. The new Canadian Feature Film Database, as well as the Lest We Forget Project, which some of us are very well aware of, are just two initiatives aimed at making Library and Archives Canada more accessible than ever.

Again, the honourable senator often asks questions — as she did the other day — along with the Honourable Senator Chaput, about the Canada Periodical Fund. When I did some checking on it, this fund has not changed at all, despite the allegations from the other side.

[Translation]

**Senator Tardif:** Honourable senators, I suggest that the government leader check her sources because, according to our information, which is from primary sources, that is not at all the case.

Back to my question. The government leader mentioned that the work of Library and Archives Canada will continue its work using new technologies. According to the Canadian Council of Archives, the National Archival Development Program also funded the development of a national online archival catalogue, as well as provincial and territorial versions, so that all archival institutions, even the smallest ones, can reach Canadians. According to the Canadian Council of Archives, the recently announced cuts will sabotage all of the work done to date, including advances involving new technologies. Why?

[English]

**Senator LeBreton:** First, honourable senators, no government — and certainly not a government that cares as much about our history as this government does — will engage in practices that would in any way diminish the ability of Canadians to access archival material.

• (1400)

However, Senator Tardif made a specific comment — I did not get the name of the board — and, just as I did on the periodicals, I will seek further information in order to satisfy the honourable senator that the government takes these matters very seriously.



[Translation]

**Senator Tardif:** Honourable senators, it was the Canadian Council of Archives. Let me give an example of the impact these cuts will have by quoting the CCA's chair, Lara Wilson. She said:

Canada will celebrate the 150th anniversary of Confederation in 2017. Archives have been building toward this anniversary so all Canadians have access to their documentary heritage, but elimination of NADP will seriously jeopardize the effectiveness of how this celebration can be accomplished.

While the government is spending over \$11 million to recreate the War of 1812, it is abolishing a program that gave only \$1.7 million to the CCA, an amount that has not changed since the 1990s. The CCA will have an essential role to play during the celebration of the 150th anniversary of Confederation. Why is it experiencing the greatest cuts in the heritage sector?

[English]

**Senator LeBreton:** Honourable senators, perhaps Senator Tardif did not listen to my first answer, because we are doing just the opposite. We are providing more services to Canadians, not fewer, and engaging in new programs to properly educate Canadians and ensure they are aware of our great history. I reiterate that we have increased the services. We are putting more information online and more services are available.

It is very hard for me to stand here and accept that somehow or other we are undermining or cutting back on a very important service that is provided to Canadians, especially when we have important events like the 200th anniversary of the War of 1812 this year and the upcoming 150th anniversary of Confederation.

## ENVIRONMENT

### CLIMATE CHANGE STRATEGY

**Hon. Grant Mitchell:** Honourable senators, critical to developing markets for our oil and to getting permission to build our many projects is the social licence that we get from people, from societies, from countries to allow us to do these projects.

Counterintuitively, in the process of trying to sell the Keystone or Northern Gateway pipelines, this government has cut 1,700 jobs from the Department of the Environment, cut countless numbers of scientists — to the point where people are really worrying about the scientific credibility of that department — cut countless research stations that have been focused on climate change, shut down the National Round Table on the Environment and the Economy, attacked environmental charities in Canada, attacked international environmental foundations, diminished the environment review process, and delayed regulations on the oil sands.

What possible good can it do to send that kind of message to Canadians, to the world of people concerned about our projects and to the people who need to give us social licence so we can sell our products and build our projects? It does not make any sense.

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, thank goodness they are not listening to Senator Mitchell or they would believe all that hyperbole. He has cited a long list which he claims as fact, but it is factually incorrect. Rather than try to convince him of what the government is doing in the environmental front — which of course would be impossible, and would have as much impact as me spitting in the ocean — I will provide him with a detailed response.

**Senator Mitchell:** Honourable senators, we have enough environmental problems without spitting in the ocean.

How counterproductive is it that, in the middle of trying to sell the Northern Gateway project to people worried about spills, the government is actually shutting down the B.C. office of the Environmental Emergencies Program and sending it 3,000 or 4,000 miles away to Quebec?

**Senator LeBreton:** At least if I spit in the ocean, honourable senators, my spit is salty and it will match.

I will, of course, take the honourable senator's question as notice. I have made up my mind that I am not going to respond to his diatribes any longer.

**Senator Mitchell:** I do not think the leader has ever responded, really, but that will not stop me. If she is not going to do her job, then we should dock her pay.

It has been reported today that a former premier of Alberta has suggested that the Wildrose party failed in Alberta's recent election because it denied the science of climate change. I will quote former premier Stelmach, who said:

These are serious matters. You're going to go to Europe today and tell them you don't believe in climate change and you're going to sell them oil?

How does that approach resonate in markets in Canada and abroad, when we need social licence and certain key members of caucus in the Commons and here in the Senate are clearly announcing that they deny the science of climate change? Even the Minister of Natural Resources stood in the house and would not admit that he accepted the science of climate change. What good does that do when we are trying to sell our products and build our projects in Canada and around the world if we cannot have any hope whatsoever of getting the social licence that we need to do that?

**Senator LeBreton:** Honourable senators, I never thought I would see the day when the failed leader of the Liberal Party in Alberta would be quoting a Conservative premier. In any event, the Minister of the Environment has said and done no such thing. I will take the honourable senator's question as notice.

**Senator Mitchell:** Honourable senators, when I was leader of Liberal Party in Alberta we got more seats than the Wildrose party got two weeks ago. We campaigned on Kyoto. It was interesting. Lots of Albertans accept that we need to do something about climate change. It is very unfortunate that this government does not include many of those Albertans.

The leader does not have to believe or disbelieve what Mr. Stelmach said about the science of climate change. That is not the issue. Customers are demanding it. If the government is selling black suits and its customers want white, what will it do? Convince them that black is white? Is it not the case that government has to come to grips, tell the world that it accepts the science of climate change, begin to take true, concrete measures to reduce emissions, and get identifiable results to show that it has reduced them? Only then will it have some credibility in the world, and only then can we build our projects and sell our products.

**Senator LeBreton:** Honourable senators, we do have a lot of credibility in the world. I just looked over at Senator Brown and shook my head; I cannot believe Senator Mitchell would say these things as an Albertan. In any event, I will take the question as notice.

[Translation]

## CANADIAN HERITAGE

### NATIONAL FILM BOARD AND CANADA PERIODICAL FUND

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate. The National Film Board has just cut the position of bureau chief and producer responsible for French productions west of Montreal.

Once again, it is the francophones in Western Canada who are paying the price. Part of the history of this French-speaking community will be forgotten and there will be fewer and fewer French Canadian documentaries from Ontario and western Canada. The government has just done away with a vital tool of the French community that has existed for over 40 years. There will no longer be any producers on site for francophones in Western Canada. What will happen to the French projects in this part of the country?

Did the NFB conduct a study on the impact on productions by francophones in Western Canada before making its decision? Could the leader find out?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I certainly will. I am not aware of National Film Board policies. However, just as was the case last week when, on several days, Senator Chaput raised questions about minority language publications in the West — and, of course, I went to the trouble of inquiring and found she was obviously misinformed because the policy has not changed — I will take this question as notice.

As I have stated before, this government is fully committed to Canada's linguistic duality and our Official Languages Act. Under the road map which this government embarked upon, we have had incredible success with all kinds of laudatory comments from minority language groups in, for example, New Brunswick and Nova Scotia.

• (1410)

I will take the honourable senator's question as notice.

[Translation]

**Senator Chaput:** Honourable senators, I have two supplementary questions. First, could the government intervene in the decision by the NFB, an agency that reports to the Department of Canadian Heritage? Could the leader inquire as to why this decision, and not another, was made?

Honourable senators, if I have understood correctly, Senator LeBreton said that I was misinformed when I asked a question about periodicals last week.

Perhaps my question was not clear. The Canada Periodical Fund is a very good fund. However, using the current criteria, financial support cannot be provided to some newspapers in Alberta, Saskatchewan and Manitoba because of their very special situation. That is what I wanted the leader to inquire about. I will give her some additional information about this.

I will go back to my first question. Could the leader intervene in the NFB decision and find out why this decision, and not another, was made?

[English]

**Senator LeBreton:** Honourable senators, we have to be realistic. Most of the agencies of government operate at arm's length. They make decisions based on their knowledge of a particular set of circumstances. We have excellent people running the various independent agencies of government, and I do not think anyone would suggest that government oversees every decision they make. However, I will make an inquiry about the National Film Board, as the honourable senator requested.

The criteria used for the operation of the Canada Periodical Fund are not at my fingertips. However, these publications receive more support than ever before under the program that our government created. It is unfair to stand and accuse the government of not supporting these organizations when we have increased the support.

[Translation]

**Senator Chaput:** Honourable senators, I am not levelling accusations at the government, quite the opposite. The Canada Periodical Fund is a good fund and it works well. However, there has been an oversight in the criteria. Francophone minority communities realize that, if they are not vigilant, they will be forgotten because they are not part of the majority. When I pose questions, it is not to criticize, but to ask the Leader of the Government in the Senate to make an inquiry and return with an answer.

[English]

**Senator LeBreton:** The honourable senator asked specific questions with regard to that. I ascertained that the fund is still in existence and, in fact, has more resources. I did inquire and I am awaiting a written response to the specific questions.



## ORDERS OF THE DAY

### PREVENTION AND ELIMINATION OF MASS ATROCITIES

#### INQUIRY—DEBATE CONTINUED

##### On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire, calling the attention of the Senate to Canada's continued lack of commitment to the prevention and elimination of mass atrocity crimes, and further calling on the Senate to follow the recommendation of the United Nations Secretary General in making 2012 the year of prevention of mass atrocity crimes.

**Hon. Art Eggleton:** Honourable senators, I rise to speak to the inquiry of the Honourable Senator Dallaire on the prevention and elimination of mass atrocity crimes.

General Roméo Dallaire, as he was known then, was the UN Force Commander during the genocide in Rwanda. At that time, as he does now, General Dallaire spoke passionately about the duty to intervene and the necessity to save innocent lives. He made the convincing case that we must not avert our eyes but instead engage our resources, not ignore the truth but embrace reality.

In 1999, when I was Canada's Minister of Defence, General Dallaire's urgings turned into action. In Kosovo, the situation that had developed was one that could be neither tolerated nor condoned. More than 470,000 people had been displaced from their homes, and the campaign of terror that then Yugoslav President Slobodan Milosevic had started showed no signs of slowing down. Of course, we would much rather have avoided conflict altogether, and we explored every corridor of diplomacy. Indeed, we were sometimes criticized for giving Milosevic too many chances, but when our hope for a peaceful solution failed, force became necessary.

Canada's Prime Minister at the time, Jean Chrétien, together with the North Atlantic Treaty Organization, agreed when much of the world did not. Canada played a fundamental role in Kosovo because the wounds from Rwanda were still fresh and letting thousands more die was simply not an option. We had a responsibility to protect, and that is what we did.

Our actions in Kosovo declared, in no uncertain terms, that mass murder is an act of moral repugnance, not the prerogative of a sovereign state. An important step was taken toward a world in which certain fundamental rights are not the privilege of citizenship, but the birthright of humanity. That is why in 2005 Canada's then Prime Minister, Paul Martin, led the charge in the United Nations to enshrine the concept of the responsibility to protect into UN doctrine. Canada demonstrated that while respect for state sovereignty is important, the protection of the innocent is paramount.

Since then, a great deal of debate and discussion has taken place around the legitimacy of the responsibility to protect and how to put it into practice. However, I believe that intervening at the

precipice of a crisis is no longer enough. We must make prevention, and not only military intervention, a primary objective. The question, though, is "how?"

General Dallaire's searing experience in Rwanda led him not to merely curse the darkness, but to light a candle. Together with Frank Chalk, General Dallaire led a research project and published a book entitled *Mobilizing the Will to Intervene: Leadership and Action to Prevent Mass Atrocities*. In it they set out a number of recommendations that would cement the responsibility to protect into Canadian and American foreign policy.

The United States, to its credit, has recently stepped up to the plate under the leadership of President Obama on this issue and announced:

Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States.

• (1420)

They have created the Atrocities Prevention Board, which will bring together senior officials from the White House, the State Department, the Pentagon and a myriad of other agencies to coordinate a whole-of-government approach to engage "early, proactively and decisively" to prevent and interdict mass atrocities. The board will identify the economic, diplomatic and other tools to intervene.

In Canada, I hope our government moves to implement a plan similar to that of the United States. Our voices here in the Senate, if together, can go a long way to influence the government to act.

General Dallaire's emphasis on prevention is key. The ideas he laid out in his speech are necessary because building international capacity and prevention, through the UN or within individual states, is more cost-effective and would save lives. The capacity would identify fragile states and design appropriate prevention measures. At the core, we must see humanitarian intervention as a part of a continuum, one with both civil and military dimensions, and allocate our resources appropriately. Our response will often be civil in nature, where we work to build peace and prevent atrocities by supporting development, increasing economic capacity, building democratic institutions and supporting better governance in fragile states — in essence, building the foundation for peace and advancing democracy, safety and security for the people of these fragile states. As a last resort, when all else fails, we may need to mobilize military intervention.

Building capacity like this would not be an easy job — far from it — but I argue that it is not only necessary but essential in the fight to prevent mass atrocities. I believe that we, as senators, can move this idea forward within our country and internationally. Together we can work to ensure that this becomes a reality. Together we can ensure that Rwanda, Kosovo, Darfur, Libya, Syria and all too many others are never forgotten but also never repeated.

I recognize that for those who believe that state sovereignty should still trump human rights, responsibility to protect is perhaps a step too far for them. However, I believe that this is

precisely the time that Senate voices must be heard, that Canada's values must prevail and that human dignity must be paramount. We can argue over definitions of genocide or quibble over the hierarchy of rights, but, as former Prime Minister Martin said so eloquently, "We must not let debates about definitions become obstacles to action."

I say to you, honourable senators: The cause is right. The time is now.

(On motion of Senator Tardif, debate adjourned.)

## FOOD BANKS

### INQUIRY—DEBATE CONTINUED

Leave having been given to revert to Other Business, Other, Inquiry No. 35:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Robichaud, P.C., calling the attention of the Senate to the importance of food banks to families and the working poor.

**Hon. Wilfred P. Moore:** Honourable senators, it is my privilege to stand in this chamber and speak about Food Banks Canada and the Hunger Awareness Week initiative, which, of course, is this week. I would like to thank all of those who participated across Canada, in the other place and in this chamber. I would also like especially to point to the efforts of Senator Mockler, who delivered a great speech last week and who supported this cause so well. Our day of fasting yesterday served to remind us, in a small way, of the plight of many of our fellow Canadians. Honourable senators, it is time that we did our utmost to cut the use of food banks in Canada.

Food banks were created in the 1980s as a response to a growing problem of hunger that occurred during that period of economic downturn. The fact that a national charity had to be created demonstrates the breadth and scope of the problem that existed then and that has grown since.

Food Banks Canada has performed exemplary work in attempting to provide nourishment for those who find themselves in the position of not being able to do so for themselves. The work that food banks do each and every day in Canada relies on volunteers, who give their time and money to carry out a mandate that need not exist in one of the wealthiest countries on the planet.

The Standing Senate Committee on Social Affairs, Science and Technology conducted a study of poverty in Canada. Indeed, our Banking Committee looked at personal debt levels in Canada. We learned from those studies that there is a growing problem, and that it is avoidable. These studies also reminded us that a great number of people in this country hover very close to that line between having the resources to feed themselves and not having them. The very real danger of losing a job or encountering health problems can be all the impetus it takes to find oneself on the wrong side of that line. We have created a situation in Canada

whereby the less well off among us have been left to make stark choices when it comes to everyday existence. Canada has a huge lack of affordable housing. That lack of affordable housing translates into people having to decide between paying their rent or paying their bills or purchasing groceries. That is an unfair choice to have to make in a country as wealthy as ours. Choosing between food, heat and a roof over their head is not what Canadians should be worried about on a day-to-day basis. We all know that the problem exists; we see it every day, whether on our walk to work, on the news, in the correspondence we receive in our offices or from the charities that hold events to bring our attention to what is happening in our communities. This was really pointed out by Senator Robichaud in his discussion about the need to address these issues in his province of New Brunswick.

Studies exist that demonstrate how a lack of proper diet can cause many problems for children and seniors. Starting the school day with an empty stomach does not create the conditions for filling the developing brain with knowledge. The elderly, who worked very hard their entire lives and find themselves in need of help but are too proud to go to a food bank, deserve so much better.

Senators, 1.1 million kids in Canada live in poverty and are always hungry. As a response to this, it is estimated that over 3,000 community-based, child-feeding programs are operating in Canada. One such organization is Show Kids You Care. It is a national organization that provides breakfasts, snacks and lunches in 150 communities, carrying out 460 programs and serving 130,000 kids each week. It is amazing that such organizations exist. It shows the concern of ordinary citizens who do not want to see children go hungry. These numbers are staggering and are growing. Breakfast and supper time are not only for nutrition; they are for family time as well. Many people work so hard today to make ends meet that there is little time left for family. These moments spent together at dinner or breakfast are often the only quiet times for families to be together.

It is sad to think that 1.1 million children and their parents, across the country, are being deprived of that.

In my own province of Nova Scotia, for example, as we learned from last year's Hunger Count report, 22,000 people accessed food banks. Of that number, 32 per cent were children. What about the social stigma that those adults and children may feel upon having to resort to that food source?

Senators, one in 10 people who access food banks in Canada are First Nations, Metis or Inuit. That is a national disgrace. It is not in keeping with a nation that professes to care for its own.

Food Banks Canada has provided the statistics and presented them to Parliament and to Canadians so as to make us aware that, although food banks and their legion of volunteers are trying, the number of those who require assistance is growing, and it is very difficult to keep up.

We need to remember that food banks are supposed to be a temporary means of dealing with a solvable problem.

• (1430)

We need only look at the recommendations by Food Banks Canada to ensure that we, as one of the richest societies on the planet, no longer need food banks to feed such a large segment of



our population. The recommendations of Food Banks Canada are, one, increase federal and provincial support for the creation of affordable housing subsidies; two, at the provincial level, design an income support system of last resort to help our most vulnerable citizens become self-sufficient; three, increase the Guaranteed Income Supplement to ensure that no senior lives in poverty; four, improve Employment Insurance to better support older workers facing permanent layoffs and to better recognize Canadians in non-standard forms of unemployment; five, prioritize at the federal level the need to drastically improve the labour market outcomes of disadvantaged workers; six, invest in a system of high-quality, affordable, accessible early learning and child care; and seven, commit, at the federal level, to maintain the current annual increase of 3 per cent to the Canada Social Transfer to provincial governments.

Honourable senators, Food Banks Canada has done admirable work across the country since its creation in the 1980s, but it is time that we listen to their advice. It is time that we as legislators do all we can to alleviate the problems that lead to such widespread food bank use. While we may always need to extend a helping hand through food banks, we must make sure that our fellow Canadians have the necessary tools and climate to be able to provide for themselves.

It is my hope that, as parliamentarians, we might see beyond the differences between our parties, work across the aisle and come to the conclusion that hunger is non-partisan and that it will require an absolutely non-partisan effort to conquer it.

(On motion of Senator Tardif, debate adjourned.)

[Translation]

### STUDY ON FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES

#### THIRD REPORT OF ABORIGINAL PEOPLES COMMITTEE—GOVERNMENT RESPONSE TABLED

Leave having been given to revert to Tabling of Documents:

**Hon. Claude Carignan (Deputy Leader of the Government):**  
Honourable senators, I have the honour to table the government's response to the third report of the Standing Senate Committee on Aboriginal Peoples, which was tabled on December 7, 2011.

### THE SENATE

#### MOTION TO URGE THE GOVERNMENT TO MODERNIZE AND STANDARDIZE THE LAWS THAT REGULATE THE MAPLE SYRUP INDUSTRY ADOPTED.

On the Order:

Resuming debate on the motion of the Honourable Senator Raine, seconded by the Honourable Senator Andreychuk,

That the Senate call upon the Government of Canada to modernize and standardize the laws that regulate Canada's maple syrup industry, which is poised for market growth in North America and overseas, and which provides consumers with a natural and nutritious agricultural product that has become a symbol of Canada;

That the Government of Canada should do this by amending the Maple Products Regulations, in accordance with the September 2011 recommendations of the International Maple Syrup Institute in its document entitled "Regulatory Proposal to Standardize the Grades and Nomenclature for Pure Maple Syrup in the North American and World Marketplace", for the purpose of:

- (a) adopting a uniform definition as to what constitutes pure maple syrup;
- (b) contributing toward the development of an international standard for maple syrup, as it has become very apparent that the timing for the introduction of such a standard is ideal;
- (c) eliminating non-tariff measures that are not found in the international standard that may be used as a barrier to trade such as container sizes and shapes;
- (d) modernizing and standardizing the grading and classification system for pure maple syrup sold in domestic, import and export markets and through interprovincial trade, thereby eliminating the current patchwork system of grades that is confusing and fails to explain to consumers in meaningful terms important differences between grades and colour classes;
- (e) benefiting both marketing and sales for an industry that is mature, highly organized and well positioned for growth;
- (f) enhancing Canadian production and sales, which annually constitutes in excess of 80% of the world's annual maple products output; and
- (g) upholding and enhancing quality and safety standards as they pertain to maple products;

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lang, that the motion be amended as follows:

- 1) By replacing the words "which is poised for market growth" by the words "which wants to pursue its dynamic development";
- 2) By replacing paragraph (d) in the motion by the following:

"Modernizing and standardizing the grading of pure Maple syrup sold in domestic, import and export markets and through interprovincial trade which would explain more clearly to the consumer the classification and the grading system;"

[ Senator Moore ]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I am pleased to rise today to speak to Senator Raine's motion, amended by Senator Nolin, regarding the Canadian maple syrup industry.

I grew up on a farm in a region with a significant maple syrup industry. I have been enjoying maple products since I was very young. I will never forget my grandmother's maple fudge, which she made with what she called *le sucre du pays*, which is an old expression for maple sugar.

This industry has been very important to the rural regions from an economic standpoint, but it is also a symbol of Canada since we produce roughly 85 per cent of the world's maple syrup. In fact, this industry provides 12,000 full-time jobs in Canada; in Quebec, more specifically, roughly 13,500 maple producers on 7,400 maple farms work every year to contribute to Canada's production of maple products.

Senator Nolin's motion specifies that the maple industry wants to "pursue" its development in North America and overseas. This amendment is justified because our producers are already distributing their products in more than 45 countries. However, it is clear that our maple producers could be even more present in the global marketplace.

The main motion seeks to standardize the laws that regulate Canada's maple syrup industry. We know it is the responsibility of the Canadian Food Inspection Agency to ensure the safety and quality of maple syrup, but this agency is also responsible for the federal classification of maple syrup in three categories: Canada No. 1 (extra light, light and medium); Canada No. 2 (amber) and Canada No. 3 (dark).

This classification is important for reassuring the consumer about the quality of all sorts of products on the market. Since the maple syrup industry is so important for our country — in Quebec, Ontario, New Brunswick and Nova Scotia in particular — it is important for the government to protect and support it.

It is also important to point out that in Quebec, classification of bulk maple syrup is mandatory, and the Federation of Quebec Maple Producers' sales agency is fully responsible for classification. It has developed high-tech tools to assess maple syrup according to various criteria. The FQMP supports the International Maple Syrup Institute's proposal to standardize maple syrup grading, and, in fact, is already converting quickly and efficiently to the proposed new standards. However, this applies to bulk sales. Elsewhere in Canada, techniques are not as advanced. For example, the colour of maple syrup is assessed by eye, but in Quebec, it is determined according to light transmittance, which is much more precise.

The proposed new standards would apply to maple syrup classification across Canada. This proposal will clearly enhance maple syrup's reputation by making systematizing and structuring its classification.

Among the main advantages of the proposal are the systematic classification of maple syrup, the prohibition on packaging syrup with flavour defects, and the introduction of a clear definition of what can be called "maple syrup," which does not include the imitation syrup that tarnishes the reputation of real maple syrup.

Nevertheless, we also have to take into account the producers that sell their products directly to local merchants or individuals. Like many Quebecers, I discovered the wonders of maple syrup in traditional sugar shacks. Many small producers have no plans to expand their consumer base, and the new standards have to take that reality into account. We have to pay attention to these particular differences in drafting the proposal to standardize maple syrup classification.

The traditional character of sugar shacks must not be destroyed by excessive standardization. I invite the main proponents of this standardization project to include, in the analytical grid used to assess the options, this very special aspect of an ancestral tradition that has made our country famous but, above all, has etched unforgettable memories into my mind of family outings to the Chez Roger sugar shack in Saint-Prospère-de-Champlain.

I will unreservedly support Senator Raine's motion and Senator Nolin's motion in amendment, and I request that this honourable chamber proceed to the vote on this motion immediately.

[English]

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** The question that we deal with first is the motion in amendment.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Senators:** Agreed.

(Motion in amendment agreed to.)

**The Hon. the Speaker:** Honourable senators, the question now before the house is the motion as amended.

Is it your pleasure, honourable senators, to adopt the motion as amended?

**Hon. Senators:** Agreed.

(Motion agreed to, as amended.)

• (1440)

[Translation]

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I simply wanted to ask my honourable colleagues opposite if there would be a jar of maple syrup for each member of this chamber now that the motion has been adopted.

**Hon. Fernand Robichaud:** Honourable senators, I believe that if the request for a bottle of maple syrup were granted, it could sweeten the comments in this chamber.



[English]

## INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA'S DOMESTIC AFFAIRS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada's domestic affairs and their abuse of Canada's existing Revenue Canada Charitable status.

**Hon. Hugh Segal:** Honourable senators, I am delighted to contribute to the inquiry launched by our colleague Senator Eaton and spoken to already by Senators Wallace, Finley, Larry Smith, Plett, Nancy Ruth and Cowan. While I have agreed with some interventions and disagreed with others, there were, in all the speeches, points I am delighted to embrace and points that I could not. However, this debate, an inquiry, has been an important airing of substantive questions with respect to tax policy, and I want to thank Senator Eaton for her initiative and all our colleagues for participating to date.

As a Conservative I believe in freedom of expression and a very modest role for government. One cannot, as a Conservative, do other than recoil from any suggestion that tax laws or regulatory intervention should limit freedom of expression in any sector of society, including the charitable sector. The notion that anyone might advise any government to use tax audits to limit freedom of expression has a bit of a Nixonian feel to it, which is not the Canadian, democratic, civil way to proceed, and not what I believe the present government is doing in any way or should do.

That being said, I support the concerns expressed by the Minister of Natural Resources about endless environmental hearings that go on forever without any constructive resolution. These hearings often end up being not about a sound technical or scientific evaluation of project risk around something like a pipeline as much as they can be about abuse of process. Legislation that seeks a balance between the rights of opposed intervenors, expert witnesses — which are by the way not the same as opposed intervenors — and the rights of the public to a realistic, timely hearing decision is reasonable law proposed for reasonable reasons.

The oil sands are a vital global resource under explicit Canadian sovereignty and Albertan constitutional control. They are a vital economic resource for the world, and their vilification is unwarranted and unjustified.

Some years ago, some in parts of the environmental movement adopted what was called the precautionary principle that would exclude any initiative of any kind that had any risk associated with it at all. This approach, of course, had it been applied retroactively, would have made initiatives like Aspirin, the internal combustion engine, the automobile, insulin, the St. Lawrence Seaway, the railway, air travel, Caesarean sections or the ulcer drug Tagamet utterly unacceptable. Those who would

apply this principle to their opposition to energy projects have, of course, every right to do so, but they should not have an unlimited, endless time frame within which to do it at the expense of the many economic, social, workforce, investment and development and trade benefits associated with any particular energy or pipeline initiative related to the oil sands, the environmental footprint of which is competitively responsible against many other sources of energy worldwide:

As to the core question of whether charitable dollars can finance research and education on matters of the environment, there is nothing in present tax law or CRA regulation that says otherwise. Historically, in Canada, charity law defines the allowable purposes of charity very simply and directly: religion, health, welfare and education, *point final*.

This definition goes back to the 18th century British common law. There has been no change. However, in the mid-1990s, as part of the Voluntary Sector Initiative, pursued by the Chrétien-Martin administration, CRA entered into negotiations with the charitable sector over some modernization of the regulatory framework. Not-for-profit organizations like Imagine, which sought to have companies lend human resources to charitable good works, the United Way and various community foundations were part of this broad discussion.

At the time, Imagine was headed by a sterling individual by the name of Martin Connell; an energy entrepreneur, an outstanding business person and a great philanthropist who happened to be associated with the Liberal Party of Canada. The chairman of Imagine was Arden Haynes, who was the chairman of that hardcore, left-wing environmental organization, Imperial Oil. He, of course, was a prominent Conservative.

At the very same time as those negotiations, Premier Harris appointed a senior adviser in his office for charitable and not-for-profit development. Prime Minister Cameron in the United Kingdom sees charitable and not-for-profit organizations doing better on some community issues than government bureaucracy or the private sector might do. He calls this the "big society" initiative. So, too, did leaders like Mike Harris take the same view. That was what the Voluntary Sector Initiative was all about.

The hard reality, honourable senators, is that if jurisdictions were rated around getting a licence for a charitable organization, in those jurisdictions, where it was easy, were rated a nine out of ten, and those jurisdictions, where it was hard, were rated zero out of ten, Canada would be about a four. I am not critical of that, I just point out that we are not the easiest place in the world to get a charitable licence, nor should we be. This is neither good nor bad, but simple reality.

Let me suggest that the so-called 10 per cent rule that limits open advocacy was proclaimed by CRA in the 1990s to allow a measure of advocacy beyond research and education. Their definition at the time, if I may say so, was very clear. If an organization wanted to send to every member of this chamber their views on a particular piece of legislation their background and research, that would be fine. If they then followed by saying "We call on you to vote for it or against it," you would be breaking the rule. You would be in a different territory, inappropriate for charitable activity.

The truth is that I would suggest that this 10 per cent rule should really be viewed as the 90 per cent rule about what the main thrust of charitable dollars and activities must be: religion, health, welfare and education.

What would be the appropriate way forward? First, I think we should establish the principle that CRA audits be based on an impartial application of the law. They are done at random, they are done for a series of purposes to verify the nature of filings and they should never be driven by the politics of any issue, any government, any opposition party or, for that matter, any budget.

Canada could learn from the United Kingdom which has, for many years now, separated out the large statutory charities, like universities that have their own act, hospitals that have their own act and the smaller charities that do not. They have established something entitled the U.K. Charity Commission, which is there to assist, regulate and investigate complaints, if necessary. It acts as a mentor to smaller charities. It assures that U.K. charities meet all their legal requirements and work with their trustees to solve problems.

It is stated on the commission's website:

Whatever their size or purpose, an essential requirement of all charities is that they operate for the public benefit and independently of government or commercial interests.

This would address many of the issues about intent raised by many of my colleagues in the speeches in this chamber.

We would do well to consider the British model, which has served to encourage, mentor, educate and advise charities that are newer, smaller or differently directed. It is about encouraging a diversity of views and approaches, not suppressing them.

• (1450)

The notion of greater disclosure is good, but it should be applied across the board to all those who favour and oppose particular energy or development initiatives. Hearing bodies might well consider having the costs supporting interventions on all sides declared on a public register for all to see, to build on a suggestion made by Senator Nancy Ruth.

We are an open society with the free movement of people, goods, services and capital. This has always been the goal of those of us who are free traders at heart. Limiting this freedom for charitable foundations would be a destructive and retrograde step. My sense of a free society, and a more open North American market also includes the free movement of ideas. Transparency should allow all to judge motivation and purpose of any intervenor, or any participant in national debate or discussions. Restrictive tax audits, fuelled not by impartial application of the tax laws but by one set of views versus another, have no place in a free society. How far might this instrument go if it was abused? Threaten the United Church's charitable status because of the views of some of its adherents on the Middle East? Threaten an evangelical church's right to promote its views on abortion? Spare me. However one disagrees with the lawful opposing view, the right of the organization to espouse it should never be limited in a free society. That is not the Canadian way. It should not be limited by this chamber, by the other chamber, by any court or by any department of government.

**Some Hon. Senators:** Hear, hear.

**Senator Segal:** Honourable senators, any effort by government to do so, which I do not believe the Conservative government intends in any way to do, might well succumb to a Charter challenge and justifiably so.

There is — no doubt, close to Senator Eaton's heart — a foundation, the World Wildlife Federation, that promotes the conservation and promotion of the polar bear. Another organization, Coca-Cola, which is no hard left anti-development lobby organization, does the same. I would not for a moment be for a tax audit on either of these two, even though, unlike Senator Eaton, I remain loyal to the beaver as our national symbol.

It was an American president who wrapped it up this way:

We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies, and competitive values. For a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people.

That was John Fitzgerald Kennedy.

My friends, we are not afraid of the people in this chamber. We defend their interests to assert, advance, dissent, and express their views any way they deem appropriate. That is the Canadian way, and that is how I think we should deal with the issues before us in this important inquiry.

**Hon. Grant Mitchell:** Would the honourable senator accept a question?

**Senator Segal:** Yes.

**Senator Mitchell:** Senator Segal — and I thank him for his comments, very compelling — mentioned that he would hope that certain charities had not been singled out for a CRA audit by any other means than some random selection process. It seems to be more than a coincidence that Tides Canada has been at the top of that list. I am wondering if the honourable senator has any way of knowing or determining how groups and NGOs, Tides Canada and others, have been selected for these special CRA audits.

**Senator Segal:** I thank the honourable senator for that question. I understand from the newspapers that the audit of that organization began long before the recent budget was made public, and the various concerns raised about whether the charity principle was being recognized, in fact, had been addressed by a member or minister of the Crown. I do not see a relationship, if I may say so, between that particular audit, which I assume is random, and any statements that have been made since.

**Senator Mitchell:** Thank you.

**Hon. Michael Duffy:** Honourable senators, I rise to take the adjournment of this debate today, but having listened to my eloquent friend I have to throw in a few words.

I want to pay tribute, first, to the important work being done by Vivian Krause, the independent Vancouver researcher, who has done the nation a great service by bringing the facts to the



attention of the general public. As a reporter, I found the most important question in a story was: Why? In this case, why are the Rockefeller brothers and their American billionaire friends spending hundreds of millions of U.S. dollars to help — and I put the word “help” in inverted commas — why are they so keen to save Canada? Could it be they have their own commercial agenda?

Financial experts tell us the amount that U.S. oil companies pay for Canadian oil. Rockefellers, oil; does it connect? Canadians are receiving between \$20 and \$30 less a barrel for Canadian oil going into the United States than we would receive if we had an alternative market in which to sell that oil, and we were able to sell it at a competitive price. Senator Moore, that would mean millions — billions, in fact — of extra tax dollars for Canada. Those dollars could be used for worthwhile purposes like social programs, senior citizens, medicare, food banks and all of those things. We would have money for that, but we are selling Americans oil at a huge discount. Why do the Rockefeller brothers not want us to have an alternative market for our oil? Could it be that it would drive up the price and allow us to receive the world price of oil?

Is that the real agenda here? Do they really want to keep Canada dependent on the U.S. market, where they get to dictate the price? Are these American billionaires using well-intentioned Canadians in pursuit of an agenda that has nothing to do with Canada's interests but has everything to do with the interests of big business in the United States?

Despite their protestations of innocence, we are learning more every day about how some of these groups are abusing the Canadian tax system. This is not only an abuse of the Canadian taxpayer, it unfairly casts a shadow over the vast majority of charities that do great work and that follow the rules. I salute Senator Segal for pointing that out; but these few who choose to flout the law are putting a cloud over the many who do important work every day.

We must bring these foreign-funded abuses to an end before further damage is done to the honest, hard-working, good, Canadian charitable sector.

On that note, I move the adjournment in my name.

(On motion of Senator Duffy, debate adjourned.)

• (1500)

## VOLUNTEERISM IN CANADA

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mercer calling the attention of the Senate to Canada's current level of volunteerism, the impact it has on society, and the future of volunteerism in Canada.

**Hon. Jim Munson:** Honourable senators, my great friend Senator Mercer is doing extensive research as I speak — well, as much research as Senator Duffy has done. We are both in television; we know about research, right?

I would like to reset the clock. It is the fourteenth day. Do not worry; Senator Mercer will be back.

(On motion of Senator Munson, for Senator Mercer, debate adjourned.)

## CHARTER OF RIGHTS AND FREEDOMS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

**Hon. Marie-P. Charette-Poulin:** Honourable senators, I would like to thank Senator Andreychuk, who has adjourned the debate on this inquiry. Senator Andreychuk has graciously accepted that I speak today on Senator Cowan's inquiry.

Honourable senators will recall that Senator Cowan called the attention of the Senate, on April 24, 2012, to the thirtieth anniversary of the Canadian Charter of Rights and Freedoms, which has done so much to build pride in our country and in our national identity.

[Translation]

Honourable senators, with your permission and that of the author, I would like to read to you the text of an opinion piece that appeared in *La Presse* on April 12, 2012, and in *The Globe and Mail* on April 17, 2012.

The author is Bernard Amyot, a lawyer from Montreal and former president of the Canadian Bar Association in 2007 and 2008. I quote:

Canadians have reason to celebrate Tuesday's 30th anniversary of the Charter of Rights and Freedoms. Entrenched in the wake of our Constitution's patriation, as a result of a bill passed by the British Parliament, the Charter is one of the most significant milestones in our country's history, along with the adoption of federalism in 1867.

This watershed moment meant Canadians could henceforth amend their own Constitution without having to go begging to London to do so. Besides consecrating Canada's legal sovereignty, this move enshrined the rights and freedoms of Canadians. It also consecrated the rule of law, which makes all citizens equal before the law and protects them from discrimination and arbitrary state actions.

Since the Charter was ushered in, our courts, including the Supreme Court of Canada, have sanctioned all acts of public authority that violate the rights and freedoms of citizens beyond the constraints allowed within the realm of a

free and democratic society. Furthermore, Canadians respect the role of courts in this area, viewing them as impartial guardians of their rights. On occasion, citizens even accept that courts defend “unpopular” causes, so long as the Charter’s principles are maintained.

The advent of the Charter has also encouraged Parliament to pass legislation that takes into account the principles of fairness and equality. If, at times, legislators perceived the need to uphold a violation of those principles, they would be duty bound to pass such a law, notwithstanding the Charter, with the political repercussions that would entail.

Given that so few people take to the streets to protest against the decisions of our courts in that regard, I would argue that the public sees the balance achieved, albeit imperfect, as healthy and equitable.

It’s thanks to the vision and efforts of Pierre Trudeau and his justice minister, Jean Chrétien, that the Charter has become the central pillar of our constitutional system. Today, it’s the envy of millions of people around the world who dream of having their democratic rights and civil liberties similarly protected.

More important still: Canadians, including most French-speaking Quebecers, now see these founding events as positive and useful. Besides, this is what polls confirmed at the time. It’s noteworthy to underline that Francophone Quebecers adhere to the Charter to the same degree they adhere to the Charter of the French Language.

No doubt, this can be explained by their deep attachment to the principles of freedom and individual responsibility. From their origins as *coureurs de bois*, they’ve understood that innovation and creativity arise mainly from the individuality of each person and that the prosperity thereby created generally benefits the entire community.

Besides being the cornerstone of our values and national identity, the Charter also protects minorities and language rights. Indeed, as a result of this 1982 constitutional amendment, Francophone minorities across the country, as well as the Anglophone minority in Quebec, have been able to demand services in their language, as well as schools for their children.

Finally, Canadians cherish the Charter and adhere to it. They know about it, understand that it protects their rights and trust that impartial courts will uphold them. All of which gives us much reason to celebrate its 30th anniversary.

[English]

I thank Bernard Amyot for this thoughtful reminder to all Canadians, including members of the chamber of sober second thought.

(On motion of Senator Charette-Poulin, for Senator Andreychuk, debate adjourned.)

## RECREATIONAL ATLANTIC SALMON FISHING

### ECONOMIC BENEFITS—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Meighen, calling the attention of the Senate to the economic benefits of recreational Atlantic salmon fishing in Canada.

**Hon. Wilfred P. Moore:** Honourable senators, I am putting together my remarks, and I undertake to do a full speech next week, so I ask that the matter be adjourned in my name until that time.

(Order stands.)

• (1510)

## ABORIGINAL PEOPLES

### COMMITTEE AUTHORIZED TO REFER PAPERS AND EVIDENCE FROM STUDY ON BILL S-11 DURING THIRD SESSION OF FORTIETH PARLIAMENT TO CURRENT STUDY ON BILL S-8

**Hon. Dennis Glen Patterson,** pursuant to notice of May 8, 2012, moved:

That the papers and evidence received and taken and the work accomplished by the Standing Senate Committee on Aboriginal Peoples during its study of Bill S-11, An Act respecting the safety of drinking water on First Nation lands, in the Third session of the Fortieth Parliament, be referred to the Committee for its study on Bill S-8, An Act respecting the safety of drinking water on First Nation lands (*Safe Drinking Water for First Nations Act*).

**Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker):** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

## NATIONAL SECURITY AND DEFENCE

### COMMITTEE AUTHORIZED TO REFER PAPERS AND EVIDENCE FROM STUDY ON BILL S-13 DURING THIRD SESSION OF FORTIETH PARLIAMENT TO CURRENT STUDY ON SUBJECT MATTER OF BILL C-38

**Hon. Pamela Wallin,** pursuant to notice of May 8, 2012, moved:

That the papers and evidence received and taken and work accomplished by the Standing Senate Committee on National Security and Defence during its study of Bill S-13, An Act to implement the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America, during the



Third Session of the Fortieth Parliament, be referred to the committee for the purposes of its study on those elements contained in Division 12 of Part 4 of the subject-matter of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, during the current session.

**The Hon. the Acting Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

[Translation]

### BANKING, TRADE AND COMMERCE

#### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Claude Carignan (Deputy Leader of the Government)** rose pursuant to notice of Senator Irving Gerstein on May 9, 2012:

That the Standing Senate Committee on Banking, Trade and Commerce have the power to sit from 1 p.m. to 3 p.m. on Wednesday, May 16, 2012, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

He said: Honourable senators, I move the motion on behalf of Senator Gerstein.

**The Hon. the Acting Speaker:** Is it your pleasure, honourable senators to adopt the motion?

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, could I ask why the honourable senator is requesting that the Banking Committee be allowed to sit when the Senate is in session?

**Senator Carignan:** The purpose of the motion is to allow the Standing Senate Committee on Banking, Trade and Commerce to sit from 1 p.m. to 3 p.m. on Wednesday,

May 16, 2012, specifically, since the Minister of Finance, Jim Flaherty, is available to appear before the committee that day.

[English]

**Hon. Wilfred P. Moore:** That committee is scheduled to sit normally at 4:15 on that day. I am on the committee. I would ask the deputy leader if that 4:15 session has been cancelled, or will we have two sessions that day?

[Translation]

**Senator Carignan:** Yes, there may be two sessions. It will be up to the Subcommittee on Agenda and Procedure to determine whether the second session at 4:15 p.m. is still necessary. If it is, there will be two sessions that day.

**The Hon. the Acting Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

### ADJOURNMENT

#### MOTION ADOPTED

Leave having been given to revert to Notices of Motions:

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, May 15, 2012 at 2 p.m.

**The Hon. the Acting Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, May 15, 2012, at 2 p.m.)

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SENATE



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CANADA

# DEBATES OF THE SENATE

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1st SESSION



41st PARLIAMENT



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OFFICIAL REPORT  
(HANSARD)

Tuesday, May 15, 2012



The Honourable NOËL A. KINSELLA  
Speaker



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## THE SENATE

Tuesday, May 15, 2012

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### INTELLECTUAL PROPERTY IN INNOVATION AND WORLD TRADE

**Hon. Joseph A. Day:** Honourable senators, I rise today to discuss the importance of intellectual property in innovation and world trade.

Honourable senators will be aware that one of Budget 2012's main focuses is on strengthening innovation in Canada. Typically, we would tend to think of intellectual property in terms of physical possessions like our house or our automobile. However, non-tangible intellectual property is also a very important property right, especially in a world of growing international trade. It is, therefore, more than a coincidence that the World Trade Organization and the World Intellectual Property Organization are both located in Geneva.

The theme of this year's World Intellectual Property Day is the celebration of visionary innovators. The World Intellectual Property Organization describes these individuals as those whose "ingenuity and artistry have broken molds, opened new horizons and made a lasting impact." Notable Canadians who fit the description would be Sir Alexander Graham Bell, Mr. Bombardier and, more recently, Mike Lazaridis and Jim Balsillie, founders of Research In Motion and creators of the BlackBerry.

Intellectual property, honourable senators, encompasses patents, which deal with how something works, and trademarks, which deal with distinguishing a product such as McCain Foods or the Irving services. Copyright is an original work of art, literacy or music, and design relates to what a physical product looks like.

Honourable senators will become much more familiar with intellectual property when the anticipated copyright bill, Bill C-11, reaches this place. The bill is meant to modernize Canada's copyright laws, its aim being to clarify and set guidelines for issues like artists' rights, infringement of copyright and moral rights and issues surrounding the reproduction of copyrighted material.

This evening, honourable senators, between five and seven o'clock in room 256S, we will be hosting members of the Intellectual Property Institute of Canada, otherwise known as IPIC. The IPIC was founded in 1926 and is currently comprised of 1,800 members. As honourable senators may recall, when I spoke on this issue two years ago in this place, the membership was 1,300. Honourable senators will understand, therefore, that as intellectual property issues grow, so does membership.

This evening, attending this particular meeting will be young people who have won science fairs in their high schools, and they will be putting their displays on. They are very excited about being in the Senate to display their science projects. Members of the Intellectual Property Institute will also be there. I do hope honourable senators will take the time to drop by, congratulate them and meet with some of our intellectual property practitioners. That is from five until seven o'clock this evening in Room 256 next door.

#### DIAMOND JUBILEE MEDALS

**Hon. Carolyn Stewart Olsen:** Honourable senators, last Saturday I presented my first Diamond Jubilee Medal. For some honourable senators who are old hands at this, it probably comes easily. For me, it was a rite of passage. The very essence of our role as senators seems embodied in this small ceremony, serving the people of our region with a bit of ceremony, a great deal of humility and an even greater appreciation of those who serve.

I gave my first medal to Ms. Lilian Stright. Ms. Stright is 107 years old. She is one of the people I serve. She has lived in New Brunswick for 101 years of her life, and she taught school on our Cape for many years until she retired. She tells stories of her one-room schoolhouses and her students with a great deal of humour.

In listening, you have a small sense of the dedication with which she did her job. She worked for years to provide an education to the children of small communities along our Northumberland shore. Cape Tormentine, Cape Spear, Murray Corner, Bayfield and Port Elgin are all richer because she chose to serve all her working years as a teacher.

She now lives in a nursing care facility and has lost much of her sight, but she walked with some assistance into the room to meet me. Flanked by her family and friends, she accepted her medal with great appreciation.

She showed me that, even though I am not personally a medal and ceremony person, she and many Canadians are honoured by being the recipients of these awards. She helped teach me my duty. She has shown me that these ceremonies are appreciated and that I am lucky to be able to do this.

• (1410)

I try my best to give these medals to those who, perhaps, have not received recognition before. I want to honour the people who have given of themselves to their communities with no thought of recognition. You know these people, honourable senators. They are the ones who have always been there when they are needed. They bring food and comfort when there is a death or an illness. They drive the sick to the hospital for their treatments. They spend hours coaching our youth, baking for local bake sales and collecting money for local youth charities. You all know who I



mean. They are the backbone of our communities. They know how things got done, they know why they got done and, probably, they were instrumental in the change.

Without these community-minded people, we would be so much poorer in spirit. They keep our communities alive. They are the keepers of our history. They are the ones deserving recognition and I am honoured to be the vehicle honouring them.

## NEW DEMOCRATIC PARTY

**Hon. Nicole Eaton:** Honourable senators, before a parliamentarian takes their seat, the member or senator must make a solemn affirmation of allegiance or loyalty to Canada. In other words, we must all make a pledge to conduct ourselves in the best interests of this country. Breaking the oath of allegiance is a serious offence.

Parliamentarians come together in both Houses of Parliament to debate, to innovate and to act in the best interests of Canada and all Canadians. That includes healthy criticism, together with suggestions for viable solutions and directions. In fact, it is our obligation and responsibility.

However, the Leader of Her Majesty's Official Opposition continually demonstrates a disturbing willingness to put the interests of a narrow band of activists ahead of the interests of ordinary Canadians. From calls for a moratorium on oil sands development to attempts at pitting region against region, Thomas Mulcair and the NDP have become a major threat to Canada's economy, to our job creation and to our unity.

The very public, very anti-jobs and anti-Canadian junket to Washington by NDP MPs Megan Leslie and Claude Gravelle to protest against our energy resources crossed the line. The NDP is all too willing to abandon Canada's interests and sacrifices — over 700,000 jobs across Canada, as well as some \$65 billion in projected revenues. The NDP is clearly putting the good of special interests groups ahead of that of their own members and their country. Otherwise, how would one justify this treasonous, contemptuous display by Leslie and Gravelle, or the latest salvo from the leader of the NDP decrying the oil sands as the root of all evil, "Canada's Dutch disease"? Clearly, this is the continuation of a 700-word rant in the March 2012 issue of *Policy Options* where he referred to tar sands and dirty oil and offers up a cap-and-trade solution.

Why is the NDP's answer to everything to kill it with taxes? One can only conclude that the NDP oppose creating jobs and are attacking Canada with reckless abandon and alarming regularity. After all, the oil sands hold the potential of billions of dollars of revenues that could be used to enhance social programs at all levels of government — municipal, provincial and federal. Is this not the demographic that precipitated the birth of an ideology, the principle to shelter the blue-collar worker from unfairness and to protect the union member rather than the union boss? Yet this new team in Ottawa is doing everything it can to kill the very lifeline of their unionized comrades. They are betraying their supporters and their country, a dangerous trend.

There is a fundamental ethos here that needs exposing. This persistent, unhealthy, anti-Canadian rhetoric is very damaging. It undermines our reputation and the respect with which we are held internationally.

Honourable senators, how often do foreign legislators come here with the sole purpose of denigrating their government, harming their economy and devaluing their position internationally? My guess is about as often as we see a blue moon.

At least we can count on one thing: Our government will continue to promote Canada and the oil sands as a stable, secure and ethical source of energy in the world.

## THE LATE JAMES E. MARKER

**Hon. Nancy Greene Raine:** Honourable senators, I rise today to talk about another iconic Canadian product. No, I will not talk about maple syrup, although I would like to thank all of you for passing my motion last Thursday. Today my subject is Cheezies. First, I have to tell you that every week I look forward to getting a bag of Cheezies from the vending machine at the Kamloops airport to snack on as I drive home. I always felt a bit guilty indulging surreptitiously in my favourite salty snack.

It was with interest that I read recently that the inventor of Cheezies, Mr. Jim Marker, had passed away in Belleville at the age of 90. I was fascinated to learn of the development of Cheezies by a young Iowa farmer who built an extruder to mould corn grain into porous sticks to feed his cattle year round.

Chicago confectioner W. T. Hawkins heard about the unusual invention and sent his son to check it out. As they were one of the largest snack food companies in North America, producing and marketing everything from potato chips to popcorn, they recognized the potential of the new process. Soon Mr. Marker left the farm to work for Hawkins on the new product, now fried in vegetable oil and coated with cheddar cheese. It was named "Cheezies" and sold in the distinctive red and white bags.

Shortly after, Mr. Marker was sent to Ontario to open a branch plant in the small town of Tweed, where land was less expensive than in the city and where the small town suited Mr. Marker's rural upbringing. Within a few years of opening their Canadian operations, the American operation of W.T. Hawkins Confections went bankrupt and Mr. Hawkins and his son moved to join the Canadian operation. In the mid 1950s, after a fire at the plant in Tweed, the company built a new plant in Belleville, where they have stayed ever since, with a staff of fewer than 100, many of whom have been with the company for decades.

Mr. Marker was vice-president of Hawkins Confectionery, involved in everything from purchasing the ingredients to getting down on the factory floor and maintaining the machines. He never married, telling people that he was married to the company. He was a wonderful mentor to young workers. In the words of one of them:

As a student, you were almost afraid of him. . . . But once he saw you were hard-working, he would be patient and teach you.

That student is now the vice-president of finance for the company, I believe.

Mr. Marker was also very active in the community, serving as president of the Rotary Club in the 1960s and staying involved for many years. When he passed away in his home in Belleville at the age of 90 two weeks ago, he left behind a real legacy. In paying tribute, Kent Hawkins, grandson of the founder and now president of the company, had this to say:

The Cheezie has held up over all these years. . . . Jim used to say, "It's the best snack food that's ever been created."

I salute this Canadian icon.

## ROUTINE PROCEEDINGS

### FOREIGN AFFAIRS AND INTERNATIONAL TRADE

#### ANNUAL REPORT PURSUANT TO THE AGREEMENT CONCERNING ANNUAL REPORTS ON HUMAN RIGHTS AND FREE TRADE BETWEEN CANADA AND THE REPUBLIC OF COLOMBIA TABLED

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the Annual Report pursuant to the Agreement concerning Annual Reports on Human Rights and Free Trade between Canada and the Republic of Colombia.

[Translation]

### OFFICIAL LANGUAGES

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON THE USE OF INTERNET, NEW MEDIA AND SOCIAL MEDIA AND THE RESPECT FOR CANADIANS' LANGUAGE RIGHTS— FOURTH REPORT OF COMMITTEE PRESENTED

**Hon. Maria Chaput**, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Tuesday, May 15, 2012

The Standing Senate Committee on Official Languages has the honour to present its

### FOURTH REPORT

Your Committee, which was authorized by the Senate on Wednesday, October 5, 2011 to examine and to report on the use of the Internet, new media and social media and the respect for Canadians' language rights, respectfully requests funds for the fiscal year ending March 31, 2013, and requests, for the purpose of such study, that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary.

Pursuant to Chapter 3:06, section 2(1)(c) of the Senate Administrative Rules, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

MARIA CHAPUT,  
*Chair of the Committee*

(For text of budget, see today's Journals of the Senate, Appendix, p. 1275.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Chaput, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

• (1420)

[English]

## QUESTION PERIOD

### PUBLIC SAFETY

#### POLICE OFFICERS' RECRUITMENT FUND

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. This government likes to claim that it is tough on crime. However, it was recently brought to my attention by the Canadian Police Association that the government has decided not to renew funding for the Police Officers Recruitment Fund. This fund was created in 2008 by this government, not by the previous government, and had the goal of supporting provinces and territories in "recruiting additional front-line police officers."

Parliament, as we all know, recently passed the Safe Streets and Communities Act, and I am sure the leader would agree that the best way to keep our streets and communities safe is to put more front-line officers on the street. Since this government claims to be tough on crime and styles itself as the law and order government, will the government support provincial and municipal governments and law enforcement agencies by renewing the funding for the Police Officers Recruitment Fund which is set to expire next year?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I do not have the information that the honourable senator speaks of before me, but obviously the government embarked upon many programs to meet an immediate need, and once that need is met, a program ceases to exist.

Since I can only imagine that this is the case in this instance, I will take the honourable senator's question as notice in order to seek clarification.



**Senator Cowan:** I appreciate that. I would also appreciate if the leader would find out how many police officers have been recruited pursuant to that plan, because I have heard different numbers and would be grateful for the accurate information.

**Senator LeBreton:** I would be most happy to add that additional request.

[Translation]

## FINANCE

### BANKING REGULATIONS

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is for the Leader of the Government in the Senate. You have certainly heard the recent news of JPMorgan posting over \$2 billion in losses in two weeks after speculating on credit derivatives.

After that debacle, U.S. President Barack Obama said that this incident only underscores why it was so important to reform the rules that apply to Wall Street and all financial sectors, and why those rules need to be fully enforced, not just on an ad hoc basis.

A few weeks ago, I asked a question about the fact that Canadian banks had received secret loans totalling billions of dollars in order to prevent some of them from going bankrupt at the beginning of the crisis in 2008.

When will the Prime Minister work with President Obama — for once, I believe that we, on this side, agree that they should work together — in order to regulate the financial system and prohibit Canadian banks from making any speculative investments, considering that the banks are funded for the most part by Canadians' pension funds?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as was the case in the past and is still the case, the situation with regard to the banking system in the United States is quite different from the situation in Canada. It would not be prudent for the Prime Minister to interfere with a situation that is clearly the responsibility of the United States government.

The honourable senator did question me a few weeks ago about so-called secret bank bailouts. I did point out, I believe, that despite the conspiracy theories of left-wing think tanks like the Canadian Centre for Policy Alternatives, there was no secret bailout. The government took timely and effective action to support lending and to Canadian households and businesses through the Extraordinary Financing Framework. This was made clear to Parliament. This was publicly and repeatedly laid out for all to see. It was very clear from the beginning that this is what it was intended for, including as recently as Budget 2012.

As the honourable senator knows, and this has been acknowledged by business, this support ensured that the global credit crunch did not cripple Canada or the Canadian economy, allowing credit to flow to Canadians and Canadian businesses when they needed it most.

Honourable senators, it was very clear, despite the misinformation being perpetrated by the Canadian Centre for Policy Alternatives, that there were no bank bailouts in Canada.

**Senator Hervieux-Payette:** The honourable senator must remember that some banks lost billions of dollars on sub-prime loans, and this money has never been recovered. This comes mostly from pension funds. I speak with concern because \$40 billion were lost by the Quebec pension fund, the one that provides us with a pension.

If things were so good, first, I question why the government wants to raise the retirement age from 65 to 67. On one side we have experts saying that the pension system is well funded. On the other side we are told that we have to raise the age of retirement. We will see from your evidence what side you are on, but there is a strong correlation between the stability of pension funds and banks.

What measures has the Conservative government taken to ensure that our banks' high-risk investments are separated from their regular operations so they can continue to lend to Canadian entrepreneurs, who stimulate economic growth? As a correlation, I must say that not long ago — and they just stopped this practice — some European governments prevented their banks from operating with hedge funds. In fact, this prevented them from going deeper into debt and lowered their losses.

Is the government prepared to look at this? I am sure the members of our committee would be happy to look at this. If the serious problems in Greece have a domino effect in Europe, will our banks be protected by investing their money in the right places?

**Senator LeBreton:** Honourable senators, I think it is obvious that Canada is not Greece, Canada is not Europe and Canada is not the United States. As I mentioned a moment ago, there were provisions in Budget 2012 with regard to the extraordinary financing framework.

The honourable senator mentioned Old Age Security and pensions. The opposition parties — and I include the opposition here in the Senate as well — are missing the point with regard to the government's plans for Old Age Security. This is not about savings. These changes are about the future and will put Old Age Security on a sustainable path so that it will be there when it is needed by those Canadians in the future.

• (1430)

Of course, we all know, and it is clearly stated in the budget and in the Budget Implementation Act, that these changes — which are changes that are happening all over the world, by the way — do not come into effect until the year 2023, which is 11 years from now, and are phased in over the following six years, from 2023 to 2029.

## HEALTH

### PROVISION OF FOOD

**Hon. Robert W. Peterson:** Honourable senators, my question is for the Leader of the Government in the Senate.

Last week, Canada was honoured with the rather dubious distinction of being the first wealthy nation in the world to face a probe by the United Nations Special Rapporteur on the right to food. We now rank alongside Cuba and Lebanon as countries to have been inspected for inequality of access to food.

The rapporteur, Professor Olivier De Schutter, travelled across the country visiting major urban centres like Toronto, as well as remote Aboriginal communities in Manitoba and Alberta. The probe investigated Canada's food supply chains and government policies and programs affecting Canada's legal obligation to the right to food.

As a signatory to both the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, Canada has a legal obligation to "respect, protect and fulfil the right to food." Despite this legal obligation, Food Secure Canada estimates that almost 2.5 million Canadians currently live without secure access to food. This has particularly devastating effects on Canada's youth, as research shows that food banks and food programs are drastically underperforming due to a lack of government support.

This is a serious issue. People's very lives are at risk. Would the Leader of the Government in the Senate please explain to me why no one from the cabinet accepted to meet with the UN official? Why did the government not take this opportunity to assess some of the very serious problems facing communities at risk instead of just dismissing the issue out of hand?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, the senator has clearly been misinformed. The government is helping specifically First Nations communities to expand their economic opportunities and realize their full potential through skills training and employment initiatives.

With regard to the UN Special Rapporteur, we are pleased that representatives from the federal government met with Mr. Olivier De Schutter on May 7 to talk about our significant investments in First Nations' access to healthy and affordable food. Senator Peterson is quite mistaken when he says that we did not take it upon ourselves to meet with this gentleman; we most certainly did.

**Senator Peterson:** Is the leader then saying that the rapporteur was quite satisfied with the government's answer and that the 2.5 million Canadians who live without access to secure food are satisfied as well?

**Senator LeBreton:** Honourable senators, I cannot answer for the UN rapporteur; I can only answer for the government. As I just reported, the government did meet with the gentleman and pointed out the significant investments the Government of Canada has made — especially with regard to First Nations, as that is the primary area of interest of this individual — and the various programs we have embarked upon to ensure that they have access to healthy and affordable food.

## JUSTICE

### SEX TOURISM

**Hon. Mobina S.B. Jaffer:** Honourable senators, my question is directed to the Leader of the Government in the Senate. I asked this question last March, and I ask it again: Every single year,

1 million children are exploited in the global sex trade. Last month, a troubling article published in the *Vancouver Sun* stated that Canadians are among those who travel across borders to engage in commercial sex acts with children. More specifically, this article profiled Cambodia, a country where one third of the population lives on less than \$1 a day. It stated that it is Canadian men who frequent brothels and rape young girls.

In 1996, Bill C-27, which dealt with child sex tourism, passed through both houses. This bill made all sex crimes against children extraterritorial. Unfortunately, in the 15 years that this law has been in effect, only five people have been prosecuted.

I had earlier supplied my question to the leader's office, and I will ask it again: What resources has the government invested to ensure that Bill C-27 is properly enforced?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I appreciate the notice of the question. As the honourable senator correctly stated, she did ask this question a month and a half ago, and I do not believe we have provided a written response. I will look into that.

As the honourable senator knows, since she is a lawyer, prosecution of such matters falls under provincial jurisdiction; and of course she would know that I, as the Leader of the Government in the Senate, cannot comment on specific matters before the courts or that may be at the moment the subject of police investigations.

Our criminal law allows for Canadian prosecution of Canadians who engage in any prohibited sexual activity with children while abroad. Canada's sex tourism law, to which the senator made reference, reflects international consensus that those who sexually abuse children must be held accountable. Where the state in which the transgression has taken place does not proceed with prosecuting these individual Canadians, our own sex tourism provisions enable Canada to undertake the prosecution.

As the honourable senator knows, our efforts to protect children from sexual exploitation extend far beyond our borders, and Canada has fully endorsed and continues to support several international agreements on this issue, including the G8 Strategy to Protect Children from Sexual Exploitation on the Internet.

With regard to the specific question about the amount of funds allocated to this, I will ask that when we get around to providing the written response, that will be included in it.

**Senator Jaffer:** I thank the leader and I appreciate her giving me a detailed response.

I, of all people, know that prosecutions are provincial; however, the honourable senator and I both know that the investigation has to happen in the country where the offence is taking place, the investigation resources have to be provided by the federal government, and enforcement people have to be embedded in the foreign offices abroad.



In her search, could the leader please tell us specifically how many officers are employed in areas that we know Canadian men — and women, too — are frequenting so that we can find out what is happening?

I would also ask that the leader find out what investigative steps Canada is taking to ensure that our men who travel outside of Canada to sexually exploit children are brought to justice in the same way as if they had exploited a little girl in Canada.

**Senator LeBreton:** I thank the honourable senator for the question and for her ongoing interest in this very serious matter.

As she will know, at the May 2007 meeting of G8 Justice and Interior Ministers, Canada reiterated its commitment to work with other G8 countries to combat sexual exploitation, including sharing best practices related to the investigation and prosecution of child sex tourism offences. I realize that this extends far beyond G8 countries, although G8 countries do have a lot of influence in effecting changes in these countries.

I will, of course, honourable senators, ask Senator Jaffer's specific question about where these organizations are operational and what kind of resources have been allocated to them to deal with, as she quite rightly stated, a very serious and reprehensible crime.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to present, in both official languages, the answers to the oral questions raised by Senator Tardif on April 26 and May 2, 2012, concerning official language minority publications.

I also have the honour to present the answer to an oral question raised by Senator Callbeck on April 24, 2012, concerning the future of commercial fisheries in Canada.

Lastly, I have the honour to present the answers to the oral questions raised by Senator Chaput on April 26 and May 2, 2012, concerning official language minority publications.

## CANADIAN HERITAGE

### CANADA PERIODICAL FUND

*(Response to questions raised by Hon. Maria Chaput and Hon. Claudette Tardif on April 26 and May 2, 2012)*

#### Introduction to the Canada Periodical Fund

The objective of the Canada Periodical Fund (CPF) is to ensure that Canadians have access to diverse Canadian magazines and non-daily (or community) newspapers, including official language minority publications.

In 2010-2011, the CPF replaced the former Publications Assistance Program (PAP), which had subsidized postal costs, with a funding formula that rewards the performance

of periodicals at reaching readers. Since the new program is not simply a rebate of postal costs, publishers now have the flexibility to spend funds as they see fit.

Under the new formula, the entire annual budget of the Aid to Publishers component is distributed to all eligible publications according to their annual paid circulations. However, since one of the main policy principles of the new program is to favour small and mid-sized publications, the formula results in small publications receiving more funding per copy than large publications and has a limit on the largest ones.

#### Treatment of official language minority publications

Official language minority publications form key parts of the communications infrastructure of the communities they serve. In consideration of their importance and specific needs, they benefit from special eligibility requirements that improve their access to the CPF. These are:

- Need to sell a minimum of only 2,500 paid copies during the financial year, instead of 5,000.
- Are exempt from the criterion of having sold 50% of their circulation.
- Are exempt from the minimum prices of \$12 for a subscription and \$1 per copy for a magazine and 50 cents per copy for a newspaper.
- Are exempt from providing a circulation report from a circulation audit board.

Similar eligibility conditions existed under the PAP.

#### The transition from the PAP to the CPF and the impact on official language minority publications

Even though the CPF was launched in 2010-2011, the program's new funding formula was not implemented until 2011-2012. The amounts received in 2010-2011 were the result of a one-time measure to ease the transition to the CPF and are not representative of what should be expected in the future.

Under the CPF, almost all of the nearly one thousand recipients will see changes to their funding levels compared to the PAP. Recognizing the degree of the changes, a three-year transition plan was implemented in 2011-2012 to help publishers gradually adjust and plan accordingly. All industry associations, including the *Association de la presse francophone*, received full briefings on the new formula and the transition plan in August 2011. Furthermore, complete details about the formula and the transition plan are published on the program's Website for anyone to see.

The CPF is a new program, having been operating for only two years and the Aid to Publishers funding formula for only one year. We are monitoring its performance and gathering feedback from clients and stakeholders, including official language minority publications.

## FISHERIES AND OCEANS

## FUTURE OF COMMERCIAL FISHERIES

*(Response to question raised by Hon. Catherine S. Callbeck on April 24, 2012)*

Fisheries and Oceans Canada (DFO) received a significant amount of feedback from stakeholders and Aboriginal groups over the course of the national consultation which was conducted from January 12, 2012 to March 14, 2012. Information collected — both in writing and at face-to-face meetings — is currently being reviewed and analysed. As in the past, stakeholder input will be considered as DFO works to continually improve fisheries management in Canada.

DFO has a long history of consulting and working with stakeholders and Aboriginal groups. Indeed, it is important to note the department has long-established formal consultative bodies, such as regional advisory processes that meet on a regular basis, and these will remain the primary tool for commercial fish harvesters to communicate their views to DFO.

The Minister of Fisheries and Oceans has met with hundreds of individuals and groups over the past year to hear their views and to communicate the department's priorities to them. Looking ahead, the Minister will continue to regularly meet with stakeholders and provincial counterparts from all across Canada.

• (1440)

[English]

## ORDERS OF THE DAY

## CRIMINAL CODE

## BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Wallace, for the second reading of Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

**Senator Tardif:** Question!

**Senator Carignan:** Question!

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Senator Tardif:** On division.

(Motion agreed to and bill read second time, on division.)

## REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

## CRIMINAL CODE

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Braley, for the second reading of Bill C-310, An Act to amend the Criminal Code (trafficking in persons).

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to speak at second reading of Bill C-310, An Act to amend the Criminal Code (trafficking in persons).

Before I begin, I would like to thank MP Joy Smith for introducing this private member's bill and drawing attention to this very important issue. I have been working with Ms. Smith for several years now and have always admired her commitment to issues of trafficking of persons, especially women and children.

Honourable senators, according to the United Nations Palermo Protocol, "human trafficking" is defined as follows:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Honourable senators, 2.5 million people are in forced labour as a result of being trafficked. The majority of the trafficking victims are between 18 and 24 years of age. Furthermore, 43 per cent of victims are used for forced commercial exploitation; 98 per cent of those victims are women and girls. In 2006, for every 800 people trafficked, only 1 person was convicted. Every year this trade generates upwards of \$12 billion.

Honourable senators, I am confident that regardless of our political affiliations we can all come together and agree that the issue of human trafficking is one that urgently demands our attention. Bill C-310 is an important step toward combatting human trafficking.



Having worked on this issue for a number of years, I have heard countless stories of Canadian men who have travelled abroad to countries such as Thailand, Cambodia, Kenya and Romania where they have committed barbaric acts, sexually exploited girls as young as four and have not been punished or held accountable for their actions.

I have met girls in Mombasa, Kenya, who have been brought from Ethiopia and Somalia by Canadian men to be trafficked to the Middle East. The girls were promised a better life and were led to believe they were going to be working and studying. Instead, they were subjected to an incredibly unfortunate fate and were exploited and treated as slaves.

This is because, under the current law, a Canadian national who recruits, transports, transfers, receives, holds and controls victims abroad does not fall within Canadian jurisdiction and, therefore, cannot face charges on Canadian soil. Bill C-310 acknowledges this injustice and helps to ensure that this is no longer the case as it extends Canadian extraterritorial jurisdiction to the offence of human trafficking.

There are three primary reasons why we must designate the trafficking of persons as an extraterritorial offence. First, an extraterritorial human trafficking offence would allow Canada to arrest Canadians who have left the country to engage in human trafficking in an effort to avoid punishment. Second, an extraterritorial trafficking offence would ensure justice in cases where the offence was committed in a country without strong anti-human trafficking laws or strong judicial systems. Finally, an extraterritorial human trafficking offence would clearly demonstrate that Canada will not tolerate its own citizens engaging in human trafficking, inside or outside of Canada.

By passing this piece of legislation, Canada will be joining countries like the United States, Germany, the United Kingdom, New Zealand, Australia and Cambodia, all of whom have already extended extraterritorial jurisdiction.

In terms of the law, the bill introduces three important changes to the Criminal Code. First, Bill C-310 adds the current trafficking in persons offences, namely, sections 279.01 and 279.011, to the list of offences, which, if committed outside Canada by a Canadian or permanent resident, can be prosecuted in Canada. Section 279.01 deals with trafficking in persons, while section 279.011 deals specifically with trafficking in children; that is, minors under the age of 18.

Second, after being amended in the House Committee on Justice and Human Rights, Bill C-310 now includes two other sections of the Criminal Code. Dealing with human trafficking could also result in criminal prosecution in Canada, even if the acts are committed abroad. These are sections 279.02 and 279.03. Section 279.02 refers to cases in which a person receives a financial or other material benefit knowing that it results from a human trafficking offence. Section 279.03 refers to cases in which a person conceals, removes, withholds or destroys any travel document, such as a passport, that establishes another person's citizenship.

Third, Bill C-310 will amend the definitions of "exploitation" and "human trafficking" to include an interpretive tool for the courts when determining whether or not a person suffers from

human trafficking. This change will also help the definition of human trafficking in the Criminal Code to complement the definition used in the Palermo Protocol which I referred to earlier.

Honourable senators, for many years I have been working on the issue of human trafficking. In 2005, I had the honour of sponsoring Bill C49, the very first bill ever introduced in Parliament which dealt with human trafficking. While preparing for this bill, I had the opportunity to visit Nigeria. When I was in Abuja the High Commissioner, David Angel, arranged for me to visit a detention facility where they were holding a group of 12 young Nigerian girls from Kaduna, which is located in northern Nigeria. The youngest was nine years old and the oldest was 13. These girls were about to be trafficked into Europe, but were intercepted at the airport. They had been told that they were going to receive an education and a better life. Their real destination was a brothel in Europe.

These brothels thrive on human trafficking, constantly bringing in young girls to subject them to rape and exploitation. It was truly sad to look into the innocent eyes of these young girls who were now left with nowhere to go but a detention facility. Their lives were left in limbo as a result of the lies they had been told. These girls were lucky, though. For every one of those girls, thousands elude the notice of authorities.

Honourable senators, at the beginning of my speech, I shared some extremely troubling statistics. The difficulty is that when we hear numbers in the millions, we often have difficulty remembering that each one represents a child's life. Who are these trafficking victims? They are the marginalized, the disenfranchised and the vulnerable persons in our society. Let me share a story of one of those victims with you.

• (1450)

I am proud to represent my province of British Columbia in the Senate. When the Winter Olympics were taking place in my province, the other five senators from my province were just as proud as I was. In fact, Senator Nancy Greene Raine had a special role in the games, and we are all proud of her hard work. As you know, whenever there is a big sports event, women are trafficked into a host city as the market demand for sexual labourers increases. In fact, when Germany hosted the World Cup of soccer, thousands of girls were trafficked into Germany. The women's movement, with the help of Scandinavian governments, was able to stop many of those girls being trafficked into Germany at the time of the games.

In British Columbia, we did not even want one girl trafficked into our province. I am very pleased to report to you that the federal, provincial and municipal authorities worked very hard with women's groups, and we did succeed in implementing a zero-tolerance policy for people being trafficked into our country. While we all witnessed the coming together of British Columbians, Canadians and the international community, many evenings I would walk on the east side of our city to see first-hand if we had succeeded in stopping women from all over the world from being trafficked into our province.

Unfortunately, I was very sad to see that although we had made great progress, trafficking was still a sad reality of the Olympic Winter Games. While most of us, when thinking of trafficking, picture young girls and women from exotic places like Thailand and Cambodia, we do not realize that many of the women who

are being trafficked live right in our backyard. Human trafficking is not something that happens only in brothels in Thailand or slums in Africa. Human trafficking is an issue that is prevalent in our country, in our provinces and in our communities.

One night, during the Olympics, I met Grace, an Aboriginal girl. She was 12 years old. She had a very innocent, childlike face, so I approached her. She was just a child. She told me she had been brought to Vancouver. She was not a Canadian but was born not too far from our border. A Canadian boyfriend in the United States had run out of the money, so she was helping him out. He told her that she could make money fast at the Olympics and then return to him. Just then, a car stopped for her, and she ran away before I could say another word. Her childlike, innocent face will always stay with me. Whenever I walk in that area, I look for her. That young girl was robbed of not only her innocence but also her childhood.

That is what Bill C-310 wants to change — to stop Canadian people from trafficking people, mostly women and children, around the world. The purpose of this bill is to help girls like Grace, innocent children whose lives are destroyed by traffickers. The reality is that this crime disproportionately affects women and children. They are the ones who routinely face the greatest legal, social, economic and political inequality around the world. Human trafficking is very much a crime that exploits inequity and inequality.

Although the majority of human trafficking is closely linked with sexual exploitation, we must remember that forced labour is also considered a form of trafficking, one that is occurring in our own backyard. For example, in October 2010, the RCMP arrested 10 people who were running what was referred to as a Hungarian slavery ring. The RCMP in Hamilton, Ontario, described the case as follows:

The allegations were that the individuals were recruited from their home in Hungary to work. These victims were generally poor and unemployed in their home country. They were brought to Canada and promised steady work, good pay and a better life. However they quickly became aware of their fate. The traffickers controlled their victims, including who they spoke with, where they lived and even what they ate. The victims typically lived in the basement of their traffickers and were sometimes fed scraps and leftovers, often only once a day. The victims further alleged that they were taken to construction work sites daily and made to work long hours without pay.

Unfortunately, according to current Canadian law, a Canadian citizen or a permanent resident could set up shop abroad in a country like Hungary and traffic individuals onto Canadian soil with little threat of prosecution. Bill C-310 would ensure that this is no longer the case.

Mr. Robert Hooper, the Chairperson for Walk with Me, when appearing before the House of Commons Committee on Justice and Human Rights, shared with the members a testimony offered by a police officer at a bail review regarding the case of the Hungarian labour trafficking. He stated:

Well, place yourself in their shoes. They come to a country . . . they don't speak the language. They've lost

contact with their families. You have an individual who has offered them a better life. They are grasping at that. They are hopeful of getting a better life in this country. And someone graciously pays their way here only to find out that they are here to be used, that the money they are promised they will never receive. They come from a country where the relationship with the police is not particularly good; as a matter of fact they are very fearful of the police back in Hungary. And they come here, not speaking the language, and all of a sudden they are embroiled in this horrendous drama.

Honourable senators, this is but one of the many examples of the harsh realities many individuals are facing right in our country. I am very sad to say that, in my own province, many Mexican labourers face very harsh working conditions. Every summer I spend time with them, talking to them to find out how we can change their harsh conditions. When I go to the Fraser Valley and speak to these migrant workers, I am very ashamed that in my province of British Columbia, a wealthy province, workers are treated so shabbily. They work hard to provide British Columbians with fresh fruit and vegetables, but they face such harsh working conditions. Mexican-Canadians, such as Raúl Gatica, the agriculture support centres and the United Food and Commercial Workers Union are trying to stop these shameful practices. I believe this is also a form of trafficking. This should never happen on our Canadian soil.

Although I strongly stand behind this bill in principle, I also believe that this is a feel-good bill. I applaud Joy Smith for introducing this bill. However, I would like to point out to all parliamentarians that unless proper resources are allotted to the implementation and enforcement of this bill, it will fail to serve its purpose.

As I mentioned earlier, a number of countries have strong anti-human trafficking laws in place, and one of the countries that I have the greatest respect for on this issue is the United States of America. Unlike Canadian laws, American laws take into account the rights of victims. Even in the event that Bill C-310 is passed, the victims of trafficking are neglected as our approach is based around perpetrators. In contrast, American law states that trafficking victims must be housed, provided with legal assistance and given proper medical treatment. In addition, American law gives foreign trafficking victims the right to stay lawfully in the country with protection. These are the kinds of revisions we need in Canada to protect victims and not force them to be deported and leave our great country.

Professor Amir Attaran, who appeared before the House Committee on Justice and Human Rights, shed light on this issue when he gave the following example:

Put yourself in the shoes of those trafficked. When you're on your back being sexually exploited, you are probably hoping for someone in uniform to kick in the door and slip handcuffs on your trafficker. Now, imagine how easily that can turn into a nightmare when it happens because the men and women in uniform come into the room and slip handcuffs on you. Why? Because the trafficker tore up your passport and you don't have a valid visa to be in Canada.



Honourable senators, I believe that we can all agree that this legislation is important as it will help address the very urgent and prevalent issue of human trafficking. However, this legislation has to be worth more than the paper it is written on. In order to really tackle this issue and to protect vulnerable men, women and children in Canada and abroad against this grave offence, resources must be put in place to ensure that these laws are properly enforced.

• (1500)

For example, every year over 1 million children are exploited in the global sex trade. Unfortunately, every year many Canadians travel outside Canada and engage in sex acts with children. In response to this, in 1996 Bill C-27, which dealt with child sex tourism, passed both houses. The bill, which is similar to the one before us today, made all sex crimes against children extraterritorial. Although Bill C-27 received an abundance of support and was strong in principle, it unfortunately has not been effective.

In 15 years, there have been five successful prosecutions in Canada of child sex tourists, most of which were by happenstance and not because of our investigative work. One of the five successful prosecutions was of Mr. Kenneth Klassen, an art dealer from Burnaby, British Columbia. A mere 48 hours after landing in Cambodia, Mr. Klassen had assaulted and videotaped almost a dozen young girls, the youngest of whom was eight years old. After unsuccessfully making the claim that Canada's sex tourism laws were unconstitutional, Mr. Klassen pleaded guilty and received the same charge he would have received had he assaulted and exploited a Canadian girl.

Unfortunately, there are many men like Mr. Klassen who are not held accountable for their actions. The fact there have been only five prosecutions in one and half decades demonstrates this. This is largely due to the fact that proper resources have not been put in place to enforce the legislation.

Honourable senators, if we are really going to take a stand against the trafficking of persons, we must put forward an honest effort to ensure that this bill is accompanied by the necessary resources.

Another example of legislation that was honourable in principle but lacked the resources to be effective was the one that criminalized female genital mutilation. In 1995, in the Second Session of the Thirty-fifth Parliament, Bill C-27 was passed making female genital mutilation a criminal act; therefore, in Canada this practice is considered a criminal offence. Those who perform this procedure can be charged under the Criminal Code of Canada. Unfortunately, over the past 17 years not one conviction has been made, even though there is evidence indicating that this practice still takes place in Canada.

We have learned from the child sex tourism legislation and the legislation criminalizing female genital mutilation that we must be ready to put forward resources to ensure that the legislation is enforced and that vulnerable men, women and children are no longer robbed of their basic human rights and dignity. Until this is done, this legislation will be no more than words on a piece of paper.

Bill C-310 is about making sure that Canadians can be stopped from trafficking children from around the world. It is a very good first step, and now we need the will to provide the resources to really stop trafficking so that 12-year-old Grace's childhood will not be robbed from her by Canadian nationals.

I know that most honourable senators will support this bill. I encourage honourable senators to support Senator Boisvenu, sponsor of the bill in the Senate. This is the first step in stopping human trafficking. We must provide the resources so that the victims can find refuge after they report the trafficking.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Di Nino, for the second Reading of Bill C-290, An Act to amend the Criminal Code (sports betting).

**Hon. Norman E. Doyle:** Honourable senators, I have a few words to say on this bill. I want to put a few concerns on the record that I feel are valid. Bill C-290 is sponsored by Mr. Joe Comartin of the NDP. The bill is an act to amend the Criminal Code. Because it involves the gambling industry and amending the Criminal Code, and because the gambling industry has an obvious social impact on so many people generally, discussion is not only warranted but also advisable.

Whenever I see an amendment to the Criminal Code, I sit up and take notice because amending the Criminal Code generally, but not always, can signal a positive or a negative change to some sector of society.

The bill is known as, for want of a better term, "the sports betting bill." This bill will legalize single event sports betting in Canada. To put it more clearly, currently gamblers must bet on a minimum of three games simultaneously, but with the passage of this bill, that law will be expanded to allow a person to bet on just one event. I am a little concerned about that, and I want to state why.

I have heard two or three speeches on this bill in the Senate and a couple from the House of Commons as well. No one seems to have any great concern, on the record at least, with respect to this bill, so it is not outside the realm of the possible that my concerns are simply my concerns.

I say that these concerns are not on the record, but I hear a lot of concerns off the record from people on the street or in the mall. I am sure honourable senators are aware that a recently publicized Harris Decima research poll on single event sports betting showed that 35 per cent were against it, 35 per cent were for it and the rest had no opinion. It is on behalf of the 10 million or so people in Canada who have some concerns about the bill that we should speak about it.

Through the Criminal Code, the federal government will determine what forms of gambling, if any, will be legal in Canada and what forms of gambling will not be legal. The provinces, as honourable senators are very much aware, manage those forms of gambling that the Criminal Code deems legal. Since 1969, and correct me if I am wrong, the Criminal Code has been amended — so many different times that I have lost track — to remove the restrictions on what forms of gambling will be legal in Canada.

What has been the result of removing these barriers to easy gambling? There has been quite a high increase in gambling. As a matter of fact, Statistics Canada indicates that gross revenue from government-run gambling operations has increased five-fold between 1992 and 2007. In 1992, gross revenues from gambling were \$2.7 billion, and today they are up around \$14 billion.

• (1510)

Honourable senators, the question we could ask is, why should we be concerned? After all, “freedom of choice” are the buzzwords today and, if I want to gamble, then I can gamble. That is fine, but gambling revenues, we are told, come at a very high cost to society. Research shows that government-sponsored gambling has dangerous social consequences. I am really surprised that none of the speakers I have heard on this so far have bothered to mention a few fairly widespread facts.

For instance, a study by the *Boston College Law Review* found that children of lower-income families and people with compulsive personalities are among those who suffer most. Why? In 1998, they started to do some work on this and the Quebec coroner’s office linked about 27 of the province’s 1,200 suicides to problem gambling. By 2004, that number had increased to 32 out of 1,200. A similar trend in Ontario was then noticed. A report by the Ontario Chief Coroner revealed that gambling-related suicides more than tripled between 1998 and 2007.

In addition, of course, many provinces do not have a formal reporting system for gambling-related suicides, so these numbers would probably be a whole lot higher if all gambling-related suicides were reported. People tend not to report gambling-related suicides because of the obvious shame involved. I know honourable senators will be very interested in this, because the Senate recently adopted a national suicide prevention program.

In fact, the Canada Safety Council estimates that over 200 gambling-related suicides take place in Canada every year. It could be more. It could be 300 or 400, because of the

non-reporting. Can honourable senators imagine the trail of broken homes, ruined lives, broken families and broken children because of the number of suicides that occur every year that could have been prevented?

Honourable senators, if we are not concerned about that, we should probably remember that gambling is a very inefficient way of raising revenues. For every dollar of revenue that is collected by the various forms of government, government has to spend fifty cents to collect that dollar. In other words, governments across Canada are spending about \$7 billion a year to collect \$14 billion in gambling revenues. There was a \$7-billion revenue stream — and not \$14-billion — that went into government coffers at the provincial and federal levels.

One has to ask if raising \$7 billion in revenue through traditional means would not have been more effective and more efficient for the people of this country. On top of that, the number of broken lives, broken homes, broken families and broken children would have been so much less. Bringing in further legislation to enhance gambling revenues through single-sport betting, in my opinion at least, will only add to the adverse social costs of gambling.

One will often hear people talk about the employment that is created because of casinos and gambling generally. However, gambling does not create good employment. Data from Statistics Canada indicates that workers in the gambling industry were more likely to be hired by the hour and at a lower hourly rate than workers in non-gambling industries.

Honourable senators, I think we should call a spade a spade here. There is nothing, in my opinion at least, about this NDP bill that is of any value to society at all. In fact, it would hurt society. Its only aim is to add further problems and further social consequences to an already bad situation.

The *Lethbridge Herald* recently made a good point and a good comparison as to what we can actually compare to single-event betting. They said legalizing yet another form of gambling is like an addict searching for a new vein. Robert Williams, a research coordinator for the Gambling Research Institution and a health sciences professor at the University of Lethbridge, said the idea may be a boon for professional sports bettors, but not for Canada. He said the addict analogy is a very good one here, because gambling revenues have stabilized or gone down in many jurisdictions and that is why they are seeking any other avenue for trying to raise money. He is talking about provinces which are very often in deficit positions and trying to raise as much money as they can. However, we have to ask if they should be raising these revenues on the backs of the people who can least afford to pay.

I personally wonder about someone involved in betting on a specific event who may have access to the player and encourage underperformance through bribery. Is there a higher probability of fraud when one gets involved in single-sport betting, as opposed to having people bet on a minimum of three? Obviously, people will be more inclined to gamble now because of the so-called higher probability of winning. That will certainly increase the temptation to gamble and it will definitely increase the temptation for compulsive gamblers. Through this bill, are we simply pushing the gambler closer to the edge and helping them to find a vein?



I am also told that with single-sport betting debts will be larger — they will be massive — and what kind of threat will that present to the compulsive and unsuspecting, especially when it will be easier to bribe or commit fraud?

It might be of interest to honourable senators to know that in the United States they have almost no single-event betting. Yes, they do in Nevada, but, for the most part, they do not have single-event sport betting in the United States.

I am also told unofficially that Windsor would stand to earn \$70 million in the first year. What is wrong with that? I do not know, except to say the government had a rule of a minimum of three games to discourage people from betting too much and from going too far, and to discourage them from getting involved in gambling at all. That change is going to encourage more people. There will probably be more social problems and more broken lives, and do we want that? Would the \$7 billion the government spent to collect the \$14 billion not be better spent on families and people who have these addiction problems? I think they would be.

Honourable senators, we have to ask ourselves one basic question about addictions and addictive people. The question that has been bouncing around with me is this: Is it not strange that we are throwing people into jail today because of the crimes they are committing through addictions when, at the same time, we are passing laws to help feed those addictions and create more havoc in society by the laws we pass? I think Mark Kelly would say, “Hey — that’s my disconnect.”

• (1520)

**Hon. Gerry St. Germain:** Would the honourable senator accept a question?

**Senator Doyle:** Yes, of course.

**Senator St. Germain:** Honourable senators, I have to agree with Senator Doyle. I was in law enforcement when gambling came in years ago, as many honourable senators know. I saw what gambling did at that time. Now we have gambling addicts, but the biggest addicts of all are the provincial governments. They are the addicts; they are addicted to this money. I cannot quote verbatim, but it has been said that when a society has to resort to gambling as a source of revenue, the society is bankrupt.

I never agreed with this from the beginning. I have had family members that have been victimized as a result of gambling addiction, and I will bet others here have had the same experience. We live in this hypocritical world that we will do this, that and the other thing, and yet many of those are contradictory, as Senator Doyle so aptly pointed out.

I would only hope that governments would come to their senses and realize the damage they are doing. As Senator Doyle pointed out, the people gambling in these places are those who can least afford to gamble. They are there hoping for the dream that will never happen.

The honourable senator mentioned something about 200 suicides a year, and there are possibly many more. Are there any statistics regarding what it was prior to our getting into this provincial

gambling addiction as a source of revenue in our country? Was the honourable senator able to find any statistics prior to this as to whether the severity of it has really increased with the advent of legalized gambling?

**Senator Doyle:** Yes, it has increased substantially. The figures that I have been using and doing some research on are the Statistics Canada estimates that have come out over the last couple of years. They indicate that it is very difficult to come up with an accurate figure for how many people commit suicide each year because of gambling-related activities. Police really do not have any accurate statistics on it. Statistics Canada feels that what has been reported so far is grossly underestimated, given the fact that gambling addictions-related suicides are not reported on a regular basis.

I am very well aware that the whole area related to the social consequences of problem gambling is complex. I think it needs much more study. However, I think Statistics Canada is doing whatever it can to try to come up with accurate figures on this. It is very difficult to do. I do not believe police accurately report the number of suicides that occur.

I think we have a real problem coming to us here. Over a period of 15 years, we started —

**The Hon. the Speaker:** If the honourable senator is seeking an additional five minutes, the house would be disposed to grant it.

**Some Hon. Senators:** Agreed.

**Senator Doyle:** Back in 1997, gambling revenues were around \$2.7 billion. Now we are up to about \$15 billion or \$16 billion a year. It seems that the number of suicides has increased with the amount of gambling that is occurring, and that is only quite natural.

We need to have a very sober look at all this.

I think the question I asked was a valid one. We are throwing people in jail every day because of their gambling addictions, the crimes they commit due to gambling addictions, and so on. Yet we amend the Criminal Code almost on an annual basis to make gambling much more accessible to people. The social consequences of all this are very high.

I think we have to have a second look at this bill and try to determine accurately whether we are doing society any favours by passing it.

**Hon. Michael Duffy:** Will the honourable senator take another question?

I know time is rushing on so I will try to be brief. Gambling is an insidious sort of thing. Some remember when it first came down the pike. I believe Mayor Jean Drapeau had a thing called the Voluntax, the voluntary tax. Some honourable senators may remember that. “Oh well, we will give into that because it is an easy thing,” and then we saw the voracious provinces convince Prime Minister Clark to turn it all over to them.

Something struck me through all those early years. I wonder if Senator Doyle remembers this. I was surprised to see this private member's bill coming from the New Democrats. Back in those days when Tommy Douglas was leader of the NDP and its forefather the CCF, they had a policy. I remember Stanley Knowles in the other place talking about this. They were opposed to gambling; they called it a tax on the poor. The NDP drew a hard line when it came to all forms of gambling, despite even the benign stuff that started off early on — "Oh, it does not hurt anybody; it is a voluntary tax."

Could Senator Doyle enlighten us on when the NDP gave up their principles to adopt this kind of a scheme?

**Some Hon. Senators:** Hear, hear.

**Senator Doyle:** I think that is a leading, loaded question. I dare not criticize a particular party here in this relatively non-partisan chamber.

**Some Hon. Senators:** Hear, hear.

**Senator Doyle:** I think the federal government is having a really rough time with the provinces. The provinces are continually coming to the federal government, begging, cajoling and doing whatever they can to have the Criminal Code amended to allow for easy gambling. Every time you see a province, especially the larger ones, coming out in a deficit, they are always looking for ways to increase revenues, and rightly so.

However, it is a sad thing to be looking to the federal government to amend the Criminal Code to collect revenues on the backs of people who can least afford to pay, people who wind up in broken homes. I saw one individual in particular who gambled away his home. He had six beautiful children who were in a social service housing unit a couple of months after he did it.

We cannot pass laws to protect every individual, but we can look at the trend that is developing over the years, the amount of money that is coming in from gambling, and the inefficient way that we have to collect gambling revenues.

• (1530)

Can honourable senators imagine the number of good social programs that could be put in place to help families and addicted people get over this problem that they have?

It is not an efficient way to use money or spend money. I think the provincial governments and any governments that engage in this kind of thing should be taken to task.

(On motion of Senator Carignan, debate adjourned.)

## STUDY ON AIR CANADA'S OBLIGATIONS UNDER THE OFFICIAL LANGUAGES ACT

### THIRD REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Mercer, that the third report of the Standing Senate

Committee on Official Languages entitled: *Air Canada's Obligations under the Official Languages Act: Towards Substantive Equality*, tabled in the Senate on March 13, 2012, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the President of the Treasury Board being identified as the minister responsible for responding to the report.

**Hon. Andrée Champagne:** Honourable senators, our committee recently tabled a new report concerning Air Canada's obligations under the Official Languages Act. Since the privatization of the company in 1988, we have all hoped that substantive equality between the use of both French and English would become a reality.

[Translation]

Our committee had studied the matter twice and had submitted a number of recommendations. For his part, the Commissioner of Official Languages recently conducted a comprehensive audit and some of his observations encouraged us to continue the work. We wanted to determine how and to what extent the various recommendations had resulted in improvements, and if progress had been made. We wanted to know if real equality was still a long way off. We believed that it was important to also ascertain the timelines established by Air Canada for implementing our recommendations and those of the Commissioner. The opening sentences of our report clearly explain the situation: "Undertaking to serve clients in the language of their choice is one thing. Undertaking to provide service of equal quality in both English and French is another."

It was obvious that a great deal of effort was made throughout the Vancouver Olympic Games. Air Canada's Linguistic Action Plan for 2011-2014 states that Linguistic Affairs is one of the few departments at Air Canada that has not sustained budget cuts or a reduction in its programs over the years.

Our committee was pleased and duty bound to point this out in our report. Steps are being taken in the right direction to ensure that the corporation fulfils its obligations under the Official Languages Act.

The fact remains that a number of us have had very unpleasant experiences, especially at different airport gates across the country, when unilingual employees have made remarks that I would say were very impolite at times when we dared ask a question in French. In places outside Quebec, naturally.

Problems arise primarily with regard to entities that are bound to Air Canada by a service contract. Part IV of the act (communications with and services to the public) is often ignored and dismissed. Has your departure gate changed at the last minute? If you do not speak English, you had better hope you can find a monitor and be able to read it.

I always think of my dear mother, a former school teacher who knew how to read, of course, but who, having lived in small towns in rural Quebec her whole life, never learned a word of English. She would have definitely missed her flight.



Not all that long ago, I heard someone very openly expressing their fears that one of the requirements of getting a job at a Canadian airline would be bilingualism. This person added that many young people, and competent young people at that, who are from Western Canada would not be able to work for an airline if it landed occasionally in Montreal, Quebec City or Moncton. My response was immediate and straightforward, "Would it make sense to hire a unilingual Francophone to work on a route that stops in Ottawa, Toronto, Winnipeg or Vancouver?"

Another sore point is, of course, the issue of employees' language of work. If we are talking about carriers operating under the Air Canada banner, such as Air Canada Express and others, located in unilingual regions, we need to recognize that their employees have absolutely no rights when it comes to language of work.

If, for any reason their work location were to change, for instance, if they were transferred somewhere else in Canada, employees who once worked in a region designated bilingual for language of work purposes, such as Montreal, could easily find themselves in a unilingual English region like Toronto. Thus, they would not have any rights in terms of language of work, because those companies are not subject to Part V of the Act.

Part VI is also quite often overlooked in Air Canada's operations. Yet this part of the Act requires corporations to ensure that English- and French-speaking Canadians have equal opportunities for employment and advancement. Those who have had the opportunity to learn both official languages over the years and can function well in both will have a clear advantage in terms of opportunities for advancement.

Honourable senators, in closing, I would like to strongly encourage you to read this report from cover to cover. By so doing, you will see that, over the years, our concerted efforts have paid off. Air Canada has made a great deal of progress in improving the way it meets its obligations under the Official Languages Act. The committee's task was to find out where the company should be encouraged and congratulated, and also to make the company aware of the complaints that Canadians are still filing with the Commissioner of Official Languages. I believe that, together, we have succeeded, and I earnestly hope that you will tell us so.

Thank you. I wish you all good reading of this report and I urge you to adopt it.

(Motion agreed to and report adopted.)

[English]

## PREVENTION AND ELIMINATION OF MASS ATROCITIES

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dallaire, calling the attention of the Senate to Canada's continued lack of commitment to the prevention

and elimination of mass atrocity crimes, and further calling on the Senate to follow the recommendation of the United Nations Secretary General in making 2012 the year of prevention of mass atrocity crimes.

**Hon. Hugh Segal:** Honourable senators, I rise today to speak in broad support of Senator Dallaire's inquiry relating to the prevention and elimination of mass atrocities. Let me state at the outset that I support the main proposals put forward by my good friend and also firmly believe that we can do even more.

As he outlined so eloquently, genocide, mass atrocities and ethnic cleansing are with us and occurring too often, and it seems that the civilized countries of the world treat each instance on a discrete case-by-case basis, having protracted discussions on whether or not to intervene as deaths and atrocities continue, stepping in only when the situation has become dire. Acting after genocide begins is better than not acting at all. Preventing genocide to begin with must be our goal as Canadians, as proponents of the responsibility to protect and as compassionate, caring and decent human beings.

• (1540)

Our foreign service representatives in the field, our key political officers and military attachés are very often on the front lines in countries where the risk of atrocities are real. They are the ones reporting back regarding the tensions and powder-keg risks. These people should get annual technical briefings by experts like Dr. Frank Chalk of the Will to Intervene Project at Concordia University and others who can update them on both the new risk areas for genocide and the different approaches used to kill people because of their ethnicity, religion, gender or political affiliation.

Full Canadian security establishment and electronic eye in the sky intelligence must be used to identify where preparations, troop assemblies and orders regarding ethnic cleansings emerge. Rape is a tool of war, and the kidnapping of children to turn them into child soldiers and mass arrests and executions are rarely done under the radar, at least not easily. We need to look into new techniques for intelligence gathering that include working with the local population, networking NGOs on the ground and having a human and electronic early-warning genocide system in place.

As Senator Dallaire pointed out through his own experiences, because of the UN's incapacity to act with any speed in a preventative or responsive way, this produced the death of hundreds of thousands in Rwanda. We must learn from that and look beyond the UN to other organizations, such as ASEAN, NATO, the Commonwealth, the Economic Community of West African States, the AU and La Francophonie, in order to build a new anti-genocide intelligence and response network, a global anti-genocide network between these organizations. This should be a Canadian diplomatic priority and national security responsibility. Genocides abroad rarely fail to impact on diaspora groups here at home and on our own national security.

Several recommendations from the Commonwealth Eminent Persons Group report that was tabled in October 2011 at Perth, Australia, relate to the subject, such as having political observers on the ground well before elections who remain after an election; the strengthening of the Commonwealth human rights mandate; and the oversight on member states' adherence to the rule of law,

democracy and human rights. These need to be adopted by the Commonwealth as real standards going forward. I am proud that Canada supports that report and its adoption in every way. Becoming a signatory to such recommendations may not put a complete stop to violations, but it would give administrations pause, should violations be the subject of scrutiny by other members of the Commonwealth, if they would then be facing possible suspension or expulsion if they do not comply with Commonwealth directives.

The 2008 Albright-Cohen report on the prevention of genocide sums up the art of the possible in its executive summary, which says in part:

We conclude in this report that preventing genocide is an achievable goal. Genocide is not the inevitable result of “ancient hatreds” or irrational leaders. It requires planning and is carried out systematically. There are ways to recognize its signs and symptoms, and viable options to prevent it at every turn if we are committed and prepared. Preventing genocide is a goal that can be achieved with the right organizational structures, strategies, and partnerships — in short, with the right blueprint.

As I have stated on numerous occasions, the responsibility to protect is completely meaningless without the will to deploy.

This past March, Senator John McCain of the United States made a passionate speech wherein he compared the situation in Syria to that in the Balkans under Milosevic and asked the U.S. to partner with our Arab League allies to stop Assad’s slaughter of his own civilians. I made the same argument in Canada in this chamber at the time. Our collective failure to act has contributed directly to thousands of deaths. Inertia, honourable senators, is never cost-free.

What is going on in Syria now may not be genocide in the classic sense as we know it; people are not being targeted for their ethnicity, religion or social class. However, they are being targeted for their audacity to speak out against the current regime and to seek democracy. The random violence against demonstrators, children, women and thousands killed and tortured only sets up the situation for a major backlash after Assad is gone. That will put the Alawite minority at genuine genocidal risk. This is why intervention now is so important.

At the end of last week, Senator John Kerry, Chair of the U.S. Senate Committee on Foreign Relations and a proponent of holding talks with Assad to stop the violence in Syria, stated publicly that it is now time to consider safe zones within Syria and for the U.S. and its allies to consider arming the opposition, putting more pressure on the Assad regime.

Honourable senators, our friends in Russia and China need also to engage. They cannot allow perpetual and insecure angst about questions relating to their internal affairs to drive their destructive authoritarian opposition to UN action and global engagement on this file. The requirement that authorization from the UN Security Council is necessary prior to taking any coercive action and the necessity of the consent of the five permanent members of the Security Council is a barrier that has and will continue to cost

thousands of lives. The unwillingness to meddle in the state sovereignty of any one nation has resulted in tens of thousands of unnecessary deaths. I seriously doubt that the families of the dead can understand what the avoiding-to-meddle argument is all about.

Canada, NATO, the EU, the AU and Arab League foreign policy goals should reflect our collective preoccupation with the need to step up before the bodies are piled like cordwood, or at least step back and let others do what is necessary. Genocide and mass atrocities need to be confronted and dealt with. The civilized world needs to stop reacting with surprise and shock each time new evidence proves that genocide and ethnic cleansing are occurring somewhere far away. In the century that we share together, no place on the earth is too far away to be ignored when this kind of problem exists.

Establishing an early-warning group on genocide jointly between DND, DFAIT and CIDA, headed by a senior appointee, would be a superb first step. Seeking to build a Canadian-led global anti-genocide network between key intergovernmental organizations would be a compelling second step. Building a specific curriculum on genocide for Canadian Forces, the Royal Military College and whatever mid-career training exists for Canada’s foreign service officers would be a third step.

However, honourable senators, taking no steps at all and settling for the status quo is simply abdication, no more, no less. It is inhuman, it is unacceptable, and Canadians deserve better.

**The Hon. the Speaker *pro tempore*:** Further debate?

(On motion of Senator Tardif, debate adjourned).

## INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA’S DOMESTIC AFFAIRS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada’s domestic affairs and their abuse of Canada’s existing Revenue Canada Charitable status.

**Hon. Robert W. Peterson:** Honourable senators, I rise before you today to speak on the inquiry launched by Senator Eaton on the interference of foreign foundations in Canada’s domestic affairs and their abuse of Canada’s existing Revenue Canada charitable status.

I would like for the debate to remain adjourned in the name of Senator Duffy after I have finished my remarks.

It is apparent that on the one hand the government is intent on cutting the legs out from charities that contribute to conservation and environment, while on the other hand the government warmly embraces foreign corporations, foreign lobbyists and



foreign money that funds right-wing think tanks, the same right-wing think tanks sheltered under charitable status, which this government purports to be making transparent.

• (1550)

Let me be clear from the start. I agree, as most honourable senators in this chamber do, that funding for charities needs to be transparent and accountable. I agree that the public should have access to the identity of foreign donors, and I am in agreement that foreign donors should not infringe upon Canadian sovereignty. However, the amendments to the Income Tax Act are not intended to be universal applications of the law, so let us set the record straight, put all the cards on the table, and get to the bottom of issue.

The issue, as stated by the honourable senator opposite, was to call the attention of the Senate to the interference of foreign foundations in Canada's domestic affairs and their abuse of the existing Revenue Canada charitable status. I would add to this that the issue is any foreign influence in government affairs, full stop. This would also include think tanks, foreign lobby groups and foreign corporations.

However, it is clear that the government is far more concerned with anyone out of line with their own agenda than in actually determining the scope of political activities of all charities, nor is the government actually concerned about the infringement of Canadian sovereignty. Senator Larry Smith asked this question: What is sovereign about allowing an American foundation to use its money to harm our own fishing sector? That is a fair question, but I would ask this: What is sovereign about American tobacco and oil corporations funding special interest reports to groups like the Fraser Institute? Charitable think tanks are supposed to be apolitical; however, the Fraser Institute openly supports the government's agenda.

These are the same think tanks and corporations that benefit from tax exemptions which are being challenged for environmental groups. Compared to funding by big American tobacco and oil corporations, which lobby through groups like the Fraser Institute, money for environmental issues is minimal. Compared to the hundreds of millions of dollars pouring into Ottawa from industry and major corporations lobbying the government, "lobbying by the environmental sector is meagre."

The Income Tax Act clearly states that a charity must devote substantially all of their resources to a charitable purpose. Charities are, however, permitted to dedicate part of their resources to political activities, the so-called 10 per cent rule. This is true as long as the political activities are non-partisan and not directed at a specific political party or candidate for public office. Let me just note that reporting political activities has thus far been left to the discretion of the charity.

The Fraser Institute is a think tank registered as a charitable organization. Unlike the Suzuki Foundation and Sierra Club, the Fraser Institute claims it does not engage in any of the 10 per cent of political activity permitted for charitable organizations.

Honourable senators, is publicly calling on the government to change election spending laws considered political activity? Is pushing provinces to adopt right-to-work legislation considered

political activity? Is producing unsubstantiated "scientific" reports attempting to delegitimize climate change after receiving funds from ExxonMobil considered political activity?

Not to be outdone in the 2011 federal election, the Fraser Institute's president criticized aspects of both Liberal and NDP budgets, calling them economically damaging, while at the same time pointing out the merits of the Conservative budget. Remember, honourable senators, this is a group that receives charitable status on the very basis that their research be politically neutral.

The institute has also been receiving funding from questionable foreign sources for some time. One group that funds the institute is the Koch brothers, two American billionaire brothers who own the second-largest privately held company in America. Their combined wealth of \$35 billion is surpassed in the United States only by Bill Gates and Warren Buffett. The Kochs operate oil refineries in Alaska, Texas and Minnesota, and control over 4,000 miles of pipeline. They have given tens of millions of dollars to Republican candidates, as well as helped fund projects undermining work on climate change, destroying environmental legislation, taxes, trade unions, and anything related to health care reform.

As heads of the oil-and-gas-based Koch Industries empire, the brothers have poured hundreds of millions of charitable dollars into lobby groups, advocacy organizations, education institutes and conservative campaigns across North America, including in Canada. They have also been called the financial engine behind the Tea Party movement, a group whose radical libertarian roots they can easily relate to.

A recent lawsuit in the United States filed against the Cato Institute by the founders of the institute, the Koch brothers, reveals the group's ambitions in think tank culture. The Koch brothers filed their complaints because the Cato Institute was attempting to sell the group. Cato's president and co-founder released a short written statement in response, saying that he sees the lawsuit as an attempt at a hostile takeover by Charles Koch and an effort to transform Cato from an independent, non-partisan research organization into a political entity that might better support his partisan agenda.

These allegations have prompted officials to urge the IRS to look into these questionable practices. It is interesting that since 2007 the Koch brothers have donated over half a million dollars to the Fraser Institute, and prior to 2008, the institute received funding from the Claude R. Lambe Foundation, an umbrella Koch family foundation. Add this to the fact that the foundation's tax records show that grants to the Fraser Institute are among the highest amounts donated, and the pattern begins to develop.

In fact, funding from foreign sources amounted to nearly 16 per cent, according to the Fraser Institute's 2010 tax return. These foreign donations, totalling more than \$1.7 million in 2010, are significantly higher than both the David Suzuki Foundation and the Sierra Club of Canada's foreign funding put together. I say again, that foreign funding was \$1.7 million in 2010 and \$2.9 million in 2009 alone. Compare that with \$550,000 for the David Suzuki Foundation and \$140,000 for the Sierra Club.

When federal statistics show that only 2 per cent of the country's charities receive funds from outside Canada, funding from political operatives like the Koch brothers actually make up a big chunk of that foreign funding, not money for environmental lobbying, as this government is suggesting.

Documents released from the Legacy Tobacco Documents Library at the University of the California in San Francisco also list no less than 209 documents involving the Fraser Institute. They reveal years of lobbying and donations totalling in the hundreds of thousands of dollars. While the Fraser Institute claims their funding is not tied to work they produce, it is interesting that after receiving funding from big tobacco the institute published a report questioning conclusive evidence between second-hand smoke and lung cancer. They also railed against anti-smoking legislation in Canada. Letters released from the library also show correspondence from the president of the institute indicating that Imperial Tobacco, JTI-Macdonald and Benson & Hedges were all aboard the Fraser gravy train.

Yes, I am in favour of making charitable funders transparent. I would even go a step further and suggest that the institute release all of its documents from the last 10 years. As I said before, let us put all the cards on the table. Let us let the public decide who is truly attempting to influence our government.

The real losers in this matter could be the international development charities, religious organizations, universities and environmental charitable organizations, all of whom receive legitimate donations from international donors. These groups should be worried that their funding could be cut off because of a ruthless, misguided agenda. They should be worried that their charitable activities could be labelled as "political activities" or, worse yet, "money laundering," and axed by a government that chooses winners and losers. They should be worried that their group could be the next on the Conservative cutting block.

Will church groups be able to discuss health choices? Will a grassroots environmental organization trying to protect local wetlands be squeezed out of the charitable sector? Who knows.

Notable charitable experts commented on the government's action in this week's Standing Committee on Finance, stating that the government measures would most likely backfire on charitable organizations conducting legitimate activities. At a minimum, the experts noted that there would most likely be a chill on charitable giving as both donors and recipients across all charitable sectors will be worried that their funding will be implicated in legitimate political activity.

Most recently, comments from charities have indicated that the chill has turned into a deep-freeze. When funding for charities is at an all-time low, a slowdown in funding can be catastrophic, especially for small- and medium-sized charities.

Last week my colleague Senator Cowan put forward the following inquiry:

That the Standing Senate Committee on National Finance be authorized to examine and report on the tax consequences of various public and private advocacy activities undertaken by charitable and non-charitable entities in Canada and abroad . . .

• (1600)

This will provide a fullsome opportunity to study this matter in great detail and determine what is defined as political activity and charitable donations.

I would strongly support the Senate granting approval for this study to proceed. It could hopefully resolve the uncertainties beginning to surround this issue.

**The Hon. the Speaker *pro tempore*:** Are there question or comments? If there are none, this matter will be adjourned in the name of Honourable Senator Duffy, as agreed.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(On motion of Senator Duffy, debate adjourned.)

## THE SENATE

### MOTION TO URGE GOVERNMENT TO MAKE SPORTING FACILITIES AVAILABLE ONE DAY ANNUALLY AT A REDUCED OR COMPLIMENTARY RATE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Raine, seconded by the Honourable Senator Wallin:

That the Senate of Canada urge the Government of Canada to encourage local governments from coast to coast to coast to collaborate in choosing one day annually to make their health, recreational sports, and fitness facilities available to citizens at a reduced or complimentary rate, with the goals of promoting the use of those facilities and improving the overall health and well-being of Canadians for the reasons that:

- (a) although Canada's mountains, oceans, lakes, forests, and parks offer abundant opportunities for physical activities outdoors, an equally effective alternative opportunity to take part in physical activities is offered by indoor health, recreational sports, and fitness facilities;
- (b) despite its capacity to be a healthy and fit nation, Canada is experiencing a decline in participation rates in physical activities, with this decline having a direct consequence to health and fitness;
- (c) local governments operate many public facilities that promote health and fitness, and those facilities could be better utilized by their citizenry;
- (d) there is a growing concern in Canada over the rise in chronic diseases, which are attributable, in part, to inactivity and in turn can cause other impediments to achieving and maintaining a healthy lifestyle;



- (e) health and fitness should be promoted and encouraged by all levels of government, to Canadians of all ages and abilities; and
- (f) we aspire to increase participation by Canadians in activities that promote health, recreational sports, and fitness.

**Hon. Jim Munson:** Honourable senators, I had just mentioned to Senator Raine that I had intended to speak to this matter tomorrow, but I am happy to speak to it now.

This is regarding childhood obesity, and we talked about Senator Raine's motion to establish a national health and fitness day. Every year, on the first Saturday in June, she would like to see — and I think we would all like to see — sporting facilities, from coast to coast to coast, offering their services at a reduced or complimentary rate. This initiative will allow families to get to know and be motivated by what these facilities have to offer. I applaud Senator Raine's motion and what she is doing.

Fitness facilities are located in communities across the country and encourage lifestyle choices to prevent obesity. Canada provides its citizens with so many different opportunities for an active lifestyle, be it outdoors or in sporting facilities. A particularly good example of this is the Canada Games Centre in Whitehorse. I had the pleasure of visiting it with Senator Lang, who invited me and Senator Demers in 2010 to a Special Olympics event, and I found that this is a classic example of where a community can really be together. It was the heart of the community and much more than a fitness centre. It was culturally pleasing. It was a day where people were swimming in the pool and or playing hockey on the rink or playing indoor soccer. There were so many things going on, and one could feel how a centre like that was the centre of attention for the people of Whitehorse. Can my honourable friends imagine having a day or more than just one day in a centre like that for free, where people, particularly those whose incomes are not that big, could come in and appreciate what is going on inside these facilities? Perhaps this motion can encourage communities to lower their rates, whether it is a municipal centre or a centre run by the private sector.

Growing up in northern New Brunswick in the 1950s, I remember running around playing ball hockey in the summer, pond hockey in the winter or river hockey on the Restigouche. Those are tremendous memories. It seemed to be a simple thing to do outside, playing under the little light bulbs at the academy rink, in the cold. Parents wanted you to come home but you refused to go because you could not get your mittens off of the hockey stick; they were frozen there. It was a simple thing to do, and it was a wonderful "Canadian way." I am sure, for many senators here, that those memories resonate with you as well.

Sadly, too many young Canadians today are more likely to sit in front of a screen, a big screen, a bigger screen or a bigger, bigger screen than to play outdoors or in a gym.

In the early 1970s, the Trudeau Government introduced the Participation program to motivate and educate Canadians about getting fit. Some of us talked about still having the big pink sneaker on the front of a T-shirt. The idea was to get Canadians moving again. It was a simple and direct response to address a

general lack of physical fitness within the population. Many senators might remember one of the program's more popular long-running television spots, with the statement that the average 30 year-old Canadian is in about the same physical condition as the average 60 year-old Swede. If Daniel Alfredsson keeps playing, it may end up being the same since he is almost 40, and there are young Canadian kids who cannot keep up with that great Ottawa Senators' hockey player, who is a Swede.

Participation ended about 10 years ago but has recently returned with public awareness campaigns, including messages aimed at parents to help them realize that their children are probably not as active as they should be. We need programs like this to make us recognize that we are in pretty terrible shape and that it is time we do something about it.

The establishment of a national health and fitness day comes at a crucial time, as 25 per cent of Canadian adults are considered obese and we have one of the highest levels of childhood obesity in the world. Childhood obesity is a multi-faceted issue. Without proper nutrition, children and adults are more likely to become overweight or obese. For people who cannot afford to participate in sports programs, the situation is worse.

Because of a lack of access to fitness programs and nutritious food, compounded by poverty and inequality, adults in First Nations communities are more likely to be overweight or obese than non-Aboriginal adults. Fitness programs need to be made available for all communities, no matter their economic background.

Lifestyles that are increasingly lived just hanging around not doing very much, a lack of exercise and fitness programs in schools, and poor diets are among the main reasons children today are more likely to develop obesity-related chronic diseases like diabetes, heart disease and certain cancers at younger ages than any other generation. Not only is this difficult for children and families, it also increases stress on our already overworked health care system.

Let us start addressing this issue now so that our young people can go back to simply being children. What Senator Raine is proposing is a very good start on the long road toward the eradication of obesity in this country. We, as senators, have the responsibility to encourage Canadians to remain physically active and to advocate for an everyday commitment to fitness. This motion proposes dedicating one day to fitness — just one day — that for many Canadians could well be the beginning of new healthy habits and routines. I strongly believe that a commitment to fitness has to become a lifelong, 365-day-a-year effort.

• (1610)

Our government needs to step up its commitment to helping children become more healthy and active. As all honourable senators know, healthy children are more likely to live rewarding lives and fully participate in society and, thereby, contribute to a healthier country.

(On motion of Senator Plett, debate adjourned.)

[Translation]

## FRENCH EDUCATION IN NEW BRUNSWICK

### INQUIRY—DEBATE ADJOURNED

**Hon. Rose-Marie Losier-Cool** rose pursuant to notice of May 10, 2012:

That she would call the attention of the Senate to the current state of French language education in New Brunswick.

She said: Honourable senators, you will recall the history of French education in New Brunswick that I presented in January. Today, I would like to speak to you about the struggles and the successes, which are a source of pride for me, of French education in my province.

Right now, French-language elementary and secondary school education in New Brunswick falls under the French half of the Department of Education pursuant to section 4 of the 1997 Education Act. The French sector covers five of the 14 school districts in the province. As of summer 2012, the government's budget cuts will decrease the number of districts by half — three French districts and four English ones will be cut.

The department's French sector programs are developed completely independently. Each district has school boards made up of members who are publically elected at the local level. Each school board is responsible for establishing the school district's direction and priorities and for deciding how the district and the schools within it will operate.

Until 1999, education was compulsory for young people in New Brunswick from the age of 6 to 16. In 1999, in order to address the issue of school dropouts, education became compulsory until the age of 18, and I am proud to tell you that over 90 per cent of students in my province now continue to go to school past the age of 16 and graduate from high school. A high school diploma is a prerequisite for any post-secondary education, whether it be college or university.

The Department of Post-Secondary Education, Training and Labour is responsible for professional development and post-secondary education in New Brunswick. This department covers the 11 community college campuses in New Brunswick, including the Collège communautaire du Nouveau-Brunswick's five francophone campuses, and the three campuses of the Université de Moncton, the only francophone university among the eight universities in my province. This department is also responsible for two specialized colleges, not community colleges, including one for forestry, which has a francophone campus in Bathurst.

In New Brunswick, 42.8 per cent of the people speak French and French is the mother tongue of 31 per cent of New Brunswickers. Most people live in the south, which is predominantly English, while 54 per cent of the francophones live in the north and northeast of the province, 33 per cent live in the southeast, and 13 per cent in the rest of New Brunswick.

Because of population aging, the number of students decreased by 14 per cent between 2001 and 2009. In addition to the demographic challenge is the geographic challenge. The northern part of the province, which is predominantly francophone, including my corner of the country, the Acadian peninsula, is slowly depopulating as people move to the three major cities in the south and southeast, namely Moncton-Dieppe, Fredericton, the capital, and Saint John.

These two challenges combined create an interesting situation: there are starting to be too many empty schools in the north and not enough French schools in the south. That is why the French school district in the Acadian peninsula is considering closing schools with low enrolments, while in the south of the province, there is not enough room in the schools.

A combination of an aging population, migration and linguistic assimilation is surely what is behind the drop in enrolment of francophone students in French schools. From 2000 to 2007, enrolment had dropped by 16 per cent in primary and secondary classes.

The drop in the number of elementary and secondary school students and the southward migration of francophones is beginning to affect university enrolment because the Université de Moncton and its regional campuses are reporting a drop in enrolment again this year.

Speaking of students, let us not forget their growing debt load. University tuition in my province is the highest in Canada, and graduates in my province have the highest debt load in the country. Community college students have not been spared either; their tuition fees will go up this fall.

More and more New Brunswickers are talking about whether such an extensive school, college and university infrastructure is the best option for our small population of approximately 753,000. That is why the community college and the Université de Moncton have started a process to better target program offerings on specific campuses. The college and the university are also looking at ways to share space and resources on their campuses where possible.

There is no denying that New Brunswick is still facing challenges in the French-language education sector. But there are also success stories.

Is there any other Canadian province or territory that, like New Brunswick, automatically requires all students in the school system to be taught the other official language?

I have long believed that all Canadians should speak both of our country's official languages as a way to open twice as many doors and to experience twice as much culture. If the rest of Canada followed New Brunswick's example, all Canadians would be much more engaged with the rest of the country and the whole world.

The fact that communities in my province can be very far apart has led to innovation in education. The New Brunswick Community College and the Collège communautaire du Nouveau-Brunswick offer online courses to students enrolled in



several of their programs, such as library science, office automation and medical secretary. I am very proud to say that the CCNB's placement rate is very high: 87 percent of graduates are employed after graduating.

The Collège communautaire du Nouveau-Brunswick is also innovating on another front: international partnerships. For the past several years — I brought this up in December 2006 — the CCNB has fostered close relationships with several developed and developing nations, including members of la Francophonie. The CCNB trains students from its partner countries in certain disciplines, both in New Brunswick and in the students' home countries. For example, in 2003, the CCNB partnered with the Institut supérieur des technologies et du design industriel in Douala, Cameroon, a partnership that enabled 455 Cameroonians to receive CCNB training in Cameroon.

• (1620)

At both the primary and secondary levels, it is a question of granting the school boards and francophone communities of my province greater powers to manage our schools. A bipartisan committee will propose amendments to the Education Act that will ensure greater compliance with the Canadian Charter of Rights and Freedoms and with recent case law regarding education in minority settings.

I would like to conclude on a more personal note, so I will leave you with a list of a few great Acadians who are the pride and joy of my province and are the product of our French-language education system: former Supreme Court Justice Michel Bastarache; well-known singer Édith Butler; multidisciplinary artist and former Lieutenant-Governor Herménégilde Chiasson; Radio-Canada's new Director General of News Programming, Michel Cormier; a lawyer who specializes in language rights, Michel Doucet; boxer Yvon Durelle; former Governor General, the Right Honourable Roméo LeBlanc; the very first winner of Star Académie, Wilfred LeBouthillier; President and CEO of Assumption Life, Denis Losier; the internationally acclaimed author and only Canadian recipient of the Prix Goncourt, Antonine Maillet; my former provincial premier and our former Senate colleague, the Honourable Louis-J. Robichaud; and last but not least, the handsome and charming renowned singer, Roch Voisine.

It is always dangerous to name people. I hope to be forgiven if I have missed anyone.

**Hon. Hugh Segal:** Honourable senators, I would respectfully like to add someone to Senator Losier-Cool's list: Donald Savoie, the esteemed writer on Canadian public administration and academic leader at the Université de Moncton. I only raise this point because I know she does not wish to forget anyone.

**Senator Losier-Cool:** I thank Senator Segal for raising this point. I am sure I would have heard from Donald Savoie!

New Brunswick's Acadia and its French education system have produced and continue to produce many successful citizens. I will soon retire from the Senate. During the 17 years that I have spent with you here in this august chamber, I have always placed a great deal of importance on the issue of French education in minority

communities. I hope that other representatives of Acadia and New Brunswick will continue my efforts after I leave. As for me, I do not have a choice; I will continue to fight for this issue as an ordinary citizen.

In conclusion, honourable senators, I wish French education in my province continued success. Long live our Acadia of which I am so proud. I will say it and even sing it: come and see Acadia, Canada's Acadia.

[English]

**Hon. Jim Munson:** Would the honourable senator accept a question?

**Senator Losier-Cool:** I would be happy to.

**Senator Munson:** Honourable senators, here is a story from a long time ago. Back in the 1960s, my wife Ginette and I had a little apartment in Senator Losier-Cool's house. Who would have thought all these years later that she would be a senator and I would be a senator? Here we are.

Of course, Senator Losier-Cool knows many of my wife's family. There was one name there and it is Ginette's second cousin — even though Quebec likes to lay claim to Roch Voisine sometimes — and her name is Natasha St-Pier. She is an incredibly big star. Of course, she was on Radio-Canada the other night and is a big star in Quebec and in France. Now that I am adding her to the honourable senator's list, can she add to it to her list as well? That is the question.

**Senator Losier-Cool:** Yes, I will add her to my list.

The apartment Senator Munson was renting was just an in-law apartment. When he was appointed to the Senate, I was the whip and responsible for offices. He came to see me and he said, "You better give me a decent office. I lived in your little cupboard apartment in Bathurst, New Brunswick." I do not remember what kind of office he had.

However, as I said, there are lots of names I could add to my list and I am sure they will remind me. Thank you.

[Translation]

(On motion of Senator Robichaud, debate adjourned.)

## ACCESS TO JUSTICE IN FRENCH

### INQUIRY—DEBATE ADJOURNED

**Hon. Claudette Tardif (Deputy Leader of the Opposition)** rose pursuant to notice of May 10, 2012:

That she would call the attention of the Senate to Justice in French in Francophone Minority Communities.

She said: Honourable senators, I rise today on a very important issue to which I would like to call the attention of all those who believe in a justice system that is more accessible and fair for all Canadians, particularly for francophone minority communities across the country.

I would like to share my concerns about access to justice in French and about the French services offered by our legal system and tell you about access to justice in certain provinces, particularly Alberta.

Since the 1980s, members of francophone minority communities have made important gains in education. Today, French-language schools and school boards managed by francophones are an integral part of the education system in every province and territory.

I would like to point out, honourable senators, that it is evident that most of the progress made in education can be attributed to the demands by francophones that their language rights be recognized and to more liberal interpretations by the courts.

This is how the Honourable Michel Bastarache, an esteemed citizen of New Brunswick and a former justice of the Supreme Court of Canada, interpreted the evolution of our language rights:

Canada's courts recognized the vision of francophone minority communities and their interpretation of history. Our acquired rights are not based on intolerance and accommodation, but on recognition of our status as francophones and our right to maintain and develop our language and our culture. By their very nature, they are fundamental rights. For that reason these rights, both individual and collective, are subject to a progressive and generous interpretation.

However, as for the right to access to justice in French, which is as fundamental as the right to education, I wonder why, despite the recognition of our rights by the Constitution, the Charter of Rights and Freedoms, our laws and the jurisprudence, there are still too many obstacles and gaps that make it difficult for members of francophone minority communities to have fair access to justice in French.

Across our country, access to justice for francophone minority communities is very unequal.

I would like to draw your attention to some results from a survey of 900 lawyers outside Quebec conducted by the Department of Justice in 2002 on the subject of access to justice in both official languages.

• (1630)

This survey shows that for the jurisdictions where francophones represent a small proportion of the total population, there are very few lawyers able to practise law in French and the demand for legal services in French is very low. Conversely, in jurisdictions where francophones are more organized from a legal perspective, the demand for services remains limited, but is more frequent.

This study also shows that the choice of whether to proceed in French or not is influenced by perceptions whereby proceeding in French might cause additional delays and that this choice would have negative repercussions on the possible ruling and even on the possibility to appeal. We see that lawyers and judges do not always inform accused persons of their linguistic rights even though doing so is a clearly defined requirement in the Criminal Code.

A real policy of active offer of judicial and legal services in the minority official language is rather rare in the majority of the provinces and territories other than Manitoba and Ontario. Even in New Brunswick, an officially bilingual province, there are predominantly anglophone regions where legal services in French leave something to be desired.

In most of the provinces, it is very hard to obtain services in French from officers of the provincial and superior courts and from support staff in courthouses. There is also a glaring lack of bilingual judicial and administrative personnel.

We must conclude that the situation access to justice in French is not great even though, honourable senators, our linguistic rights are enshrined in the Constitution, the Charter of Rights and Freedoms, the Criminal Code, the Official Languages Act and even in some provincial laws.

Section 133 of the Constitution Act, 1867, guarantees that English and French may be used equally "in any Pleading or Process" before the courts of Canada or Quebec, and provides that the acts of the Parliament of Canada and the legislature of Quebec shall be printed and published in both languages.

The Canadian Charter of Rights and Freedoms reiterates the obligation set out in section 133 by granting the right to the assistance of an interpreter in section 14, by establishing that English and French are the official languages of Canada and including the principle "to advance the equality of status or use of English and French" in section 16, and by establishing that "either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament" in section 19(1).

And finally, section 530 of the Criminal Code guarantees that the accused has the right to be tried in the language of his choice. The accused must be informed of that right. Subsection 530(1) sets out the circumstances warranting a bilingual trial.

In 1999, the Supreme Court of Canada ruled on the application of this Criminal Code provision in *Beaulac*:

Section 530(1) of the Code creates an absolute right of the accused to equal access to designated courts in the official language that he considers to be his own, providing the application is timely. The courts called upon to deal with criminal matters are therefore required to be institutionally bilingual in order to provide for the equal use of the two official languages of Canada.

Consequently, a criminal trial may be conducted in either language, which imposes the obligation of institutional bilingualism on federal courts. I would remind you that in *Beaulac*, the Supreme Court recognized that language rights are based on the principle of substantive equality between the two official languages. With respect to the courts, the Court ruled that:

Where institutional bilingualism in the courts is provided for, it refers to equal access to services of equal quality for members of both official language communities in Canada.



In reality, substantive equality therefore supposes an active offer of judicial and legal services in both official languages, which, unfortunately, is lacking across the country.

Ten years later, in *Desrochers* in 2009, the Supreme Court ruled that:

Substantive equality, as opposed to formal equality, is to be the norm, and the exercise of language rights is not to be considered a request for accommodation.

Despite the legislative and constitutional requirements in place, there are still limitations to accessing justice in French in federal courts.

The insufficient number of bilingual judges being appointed remains one of the major obstacles to access to justice in French. Pursuant to section 96 of the Constitution Act, 1867, and the Federal Courts Act, the federal government is responsible for appointing judges to federal courts, superior courts and the provincial and territorial appeal courts. Appointing chief justices and associate chief justices is the Prime Minister's prerogative.

In the Investigation Report on the Institutional Bilingual Capacity of the Judiciary for Superior Courts in Nova Scotia and Ontario published in June 2011, the Commissioner of Official Languages concluded that the current process for appointing judges does not guarantee the appointment of a sufficient number of bilingual judges to superior courts.

Furthermore, the commissioner suggested that the Department of Justice could play a greater role in evaluating the linguistic capacity of superior courts and making a regular determination as to whether these courts have sufficient linguistic capacity.

In 2010, Bill C-232, An Act to amend the Supreme Court Act (understanding the official languages), introduced a new requirement for judges appointed to the Supreme Court to understand English and French without the assistance of an interpreter. The fundamental issue was one of equity and justice for all Canadians. This bill was a logical extension of the recognition of the substantive equality of French and English in our federal institutions. Unfortunately, Bill C-232 died on the Order Paper here in the Senate in 2011.

Another obstacle to access to justice in French is the lack of necessary measures to promote respect for and the application of section 530(1) of the Criminal Code, which guarantees the accused the right to stand trial in the language of his or her choice. According to the participants in a round table on access to justice organized by the Association des juristes d'expression française de l'Alberta on June 30, 2011, it is very difficult to obtain legal or judicial services in French in Alberta.

• (1640)

Many francophones do not know that there is an offer — albeit a virtually non-existent one — of legal and judicial services in French or where to find them. The justice system in Alberta is perceived as being reluctant to provide services in French. Legal experts are not familiar enough with French legal terminology. People have to wait longer to obtain services in French, which discourages francophone clients and prompts them to obtain services in English.

Too often, a person who claims his right to stand trial in French in an Alberta court is told — in English, of course — “We are not in Quebec.” or “This is not France.”

On top of all that, the instruction manual for preparing transcripts of Alberta court proceedings says that any statements made in a language other than English in an Alberta court must be replaced by one of the following statements: “Other language spoken” or “Foreign language spoken.” French is thus considered a foreign language, despite the obligation to recognize the language rights of Albertans who want to speak in French.

The round table participants were also of the opinion that it is important to take prompt action to improve the language skills of people in the justice system, develop an active offer of service, increase the number of defence lawyers who speak French, and increase awareness of the rights conferred by section 530 of the Criminal Code.

**The Hon. the Speaker *pro tempore*:** Honourable senators, Senator Tardif's time has expired.

**Senator Tardif:** Honourable senators, may I request an additional five minutes?

**The Hon. the Speaker *pro tempore*:** Is it the pleasure of the Senate to grant Senator Tardif another five minutes?

**Hon. Senators:** Agreed.

**Senator Tardif:** It is important that the defendant be informed of his or her linguistic rights, informed in French of the charges against him or her and that he or she obtain a transcript of the hearing in French.

The Fédération des associations des juristes d'expression française agrees. It stresses the importance of raising awareness about access to justice in French both at the community level and within the machinery of justice.

In 1988, Alberta passed legislation making English the only official language and making section 110 — which made Alberta officially bilingual when it entered into Canadian Confederation in 1905 — inapplicable in its provincial constitution.

Subsection 4(2) of the language law alludes to regulations that give effect to the right to use French or English in Alberta's courts. In 1988, a regulations committee was created to develop regulations for exercising linguistic rights before the courts in Alberta, including the right to use French. Unfortunately, no procedure or policy has been implemented to guarantee francophone rights.

To that end, it is important to recall that the ruling in *Beaulac*, in 1999, specifies that the very existence of language rights requires the government to comply with the provisions of the law, and I quote:

I wish to emphasize that mere administrative inconvenience is not a relevant factor. The availability of court stenographers and court reporters, the workload of bilingual prosecutors or judges, the additional financial costs of rescheduling are not to be considered because the

existence of language rights requires that the government comply with the provisions of the Act by maintaining a proper institutional infrastructure and providing services in both official languages on an equal basis.

Recently, on March 4, 2011, in *R. v. Pooran*, Judge Anne Brown of the Provincial Court of Alberta reminded Alberta's justice minister that the language rights in section 4 of Alberta's Languages Act are in no way diminished by the fact that the provincial government failed to pass regulatory provisions necessary to implementing it.

According to the ruling, it is clear that the Government of Alberta's failure to enact regulations limits the right of litigants to speak French or English before the courts.

Regardless of case law, the Alberta legislature has done very little to eliminate obstacles to the use of French in Alberta courts.

On January 12, 2012, an Ontario Superior Court ruling charted a course for improved access to justice for Ontario francophones, including those who do not reside in one of the province's 25 designated bilingual regions. According to the ruling, the basic right of access to justice in French takes precedence regardless of whether the litigant resides in a designated bilingual region or not.

In my opinion, this decision reinforces the fact that access to justice in French is a basic right. The highest court in the land having recognized substantive equality, litigants have the right to a hearing in the language of their choice, regardless of where they live.

At the federal level, the government allocated \$4 million over five years in its Roadmap for Canada's Linguistic Duality to develop language rights training tools for Justice Canada's legal advisors; to encourage young people who speak both official languages fluently to pursue careers in justice; and to offer language training to court clerks, stenographers, justices of the peace and mediators. Those are good intentions.

However, I am sceptical about the results of such initiatives. How would the language training taken by legal staff be of benefit and put into practice if, at the top, there are not enough bilingual judges appointed and trials therefore cannot be held in French?

The federal government does not just have a responsibility to provide access to justice in French; it has legal obligations in this regard. In my opinion, since language rights are legally recognized, litigants should have the right to stand trial in French, the right to a representative of the Crown who speaks French, the right to have legal transcripts that reflect statements made in French and the right to legal and judicial resources in French.

Honourable senators, each of us aspires to a society in which everyone's rights are respected. There are good intentions and efforts worthy of recognition, but political will is often lacking. Litigants have the right to have, or to have access to, a trial in the language of their choice.

Honourable senators, I would like to remind you that the Canadian legal system is a source of inspiration around the world.

I would like to end this inquiry with this last thought: respect for language rights cannot be separated from a concern for the culture associated with the language. Former Chief Justice Dickson recognized this fact in *Mahé* when he said:

Language is more than a mere means of communication, it is part and parcel of the identity and culture of the people speaking it. It is the means by which individuals understand themselves and the world around them.

Ensuring that all Canadians have access to justice in both official languages is an issue that a society that cares about respect for rights must immediately address.

**Hon. Pierre Claude Nolin:** Would the honourable senator take a question?

**Senator Tardif:** Of course.

**Senator Nolin:** If there is time.

[English]

**The Hon. the Speaker pro tempore:** Honourable senators, regretfully, the extended time has expired.

Is there further debate?

(On motion of Senator Chaput, debate adjourned.)

• (1650)

## BANKING, TRADE AND COMMERCE

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

**Hon. Irving Gerstein,** pursuant to notice of May 9, 2012, moved:

That, notwithstanding the order of the Senate adopted on Tuesday, January 31, 2012, the date for the presentation of the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17) be extended from May 31, 2012 to June 21, 2012.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Wednesday, May 16, 2012, at 1:30 p.m.)



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# DEBATES OF THE SENATE

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1st SESSION

• 41st PARLIAMENT

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OFFICIAL REPORT  
(HANSARD)



Wednesday, May 16, 2012

The Honourable NOËL A. KINSELLA  
Speaker



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(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, May 16, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

### INDUSTRIAL ALLIANCE PACIFIC INSURANCE AND FINANCIAL SERVICES

#### PRIVATE BILL—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-1003, An Act to authorize Industrial Alliance Pacific Insurance and Financial Services Inc. to apply to be continued as a body corporate under the laws of Quebec, and acquainting the Senate that they have passed this bill without amendment.

[English]

## SENATORS' STATEMENTS

### WORLD ASTHMA AWARENESS MONTH

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, few things are as fundamental to life as breath.

Most of us never think about it. We say that something is "as natural as breathing." When we rise in this chamber to speak on various issues, we think about the words we will say, but we never pause to worry about having the breath that will allow us to speak those words. However, for more than 2.5 million Canadians with asthma, breath is not something that can ever be taken for granted.

According to the World Health Organization, Canada has one of the highest rates of asthma in the world. It accounts for some 80 per cent of chronic respiratory disease in Canada. Every year there are 146,000 emergency room visits because of asthma attacks. Traditionally, asthma was viewed as a children's disease, but actually it affects more adults than children. In fact, the prevalence of asthma among adults has multiplied over the past number of years — from 2.3 per cent in 1979 to 8.5 per cent in 2010.

According to the Public Health Agency of Canada, asthma costs the Canadian economy over \$1.5 billion a year. That is the economic cost. The human cost, of course, is incalculable. Honourable senators, every year approximately 20 children and 500 adults die from undiagnosed or poorly managed asthma. It is estimated that more than 80 per cent of those deaths could be prevented just with proper asthma education.

Many steps need to be taken to help Canadians suffering with chronic lung diseases such as asthma. Air pollution, school and workplace contaminants, smoking, obesity — these are just a few of the factors that can impact asthma. We know that early detection, proper treatment and better understanding and knowledge about the disease are critical for those living with asthma.

The Asthma Society of Canada is a national charitable organization devoted to helping Canadians with asthma. It focuses on research and education — working to improve those statistics and especially the outcomes for Canadian children and adults who live with asthma.

May is World Asthma Month, designed to raise awareness among Canadians about asthma. The goal: to help Canadians take control of their disease through education and research, so that ultimately all Canadians with asthma can live their lives symptom-free.

Many of us who have never experienced the suffocating shock of an asthma attack take our breath for granted. I hope for a day when all Canadians have the luxury of breathing without thought or worry.

Please join me in marking World Asthma Month and applauding the work of groups like the Asthma Society of Canada, who do so much to help Canadians with asthma to live full, symptom-free lives.

### GRAINS AND OILSEEDS INDUSTRY

**Hon. JoAnne L. Buth:** Honourable senators, I have noticed that when a piece of legislation is passed in Canada there are few instances when the impact of the legislation is reported. Therefore, I want to take this opportunity to tell you about the positive effects coming from the passage of the Marketing Freedom for Grain Farmers Act.

To put the grain sector in context, of the \$35.5 billion in Canadian agriculture and agri-food exports in 2010, grain and grain products accounted for 23.8 per cent or \$8.5 billion.

I recently attended the 2012 annual meeting of the Canada Grains Council in Winnipeg. The Canada Grains Council is a national association with members from the agricultural industry, including growers, across the country. It is the leading forum for the Canadian grains and oilseeds sector to enhance development of the industry and to coordinate and improve the dialogue within the grains industry and with governments.

This meeting was the first since our government passed the Marketing Freedom for Grain Farmers Act. As you know, this legislation removed the monopoly powers from the Canadian Wheat Board and gave Western growers the ability to market their own wheat and barley starting August 1 of this year.

The meeting covered topics such as the returns from wheat versus other crops, the yield lag for wheat and the interest from the private sector in the development of new wheat varieties with higher yields and new competitive traits.

The new CWB Inc. reported on its progress to provide marketing services for growers in an open market. It has already announced pool and cash contracts for wheat, durum and malting barley that offer competitive returns and solid risk management. Cargill is the first company to sign an agreement with the CWB to handle these grains and offer the CWB pricing options to growers. Discussions between CWB and other grain handlers are continuing.

Also at the meeting, a grain handling and transportation panel discussed what the industry needs in transportation policy development. Another panel of growers, exporters, researchers and regulators covered wheat variety registration in Canada and how to make the system more flexible to foster innovation while still protecting Canada's reputation as a high-quality wheat provider.

• (1340)

The Grains Council meeting demonstrated how the industry has positively embraced marketing freedom for grain farmers. There was an attitude of cooperation at this meeting that we have not seen for a long time.

Honourable senators, all of the grain industry players are moving forward in a very positive and constructive way to serve the needs of our grain customers around the world in an open and competitive market. The Marketing Freedom for Grain Farmers Act is one of the primary reasons for this forward momentum.

## INTER-PARLIAMENTARY UNION

### ONE HUNDRED AND TWENTY-SIXTH ASSEMBLY

**Hon. Mobina S. B. Jaffer:** Honourable senators, this past April, Senator Oliver, Senator Ataullahjan, Senator Dawson and I had the honour of attending the 126th Inter-Parliamentary Union Assembly, held in Kampala, Uganda. As you know, Uganda is the country of my birth and will always hold a special place in my heart. When Uganda was awarded the honour of hosting this year's assembly, all Ugandans, residing both in Uganda and abroad, were thrilled that our country would be showcased on the global stage.

I would like to congratulate President Museveni and Speaker Kadaga for hosting parliamentarians representing 159 parliaments from around the world and making this year's conference such a great success. I know that Canadian delegates, as well as all other delegates, left Uganda with a better understanding of the challenges Uganda faces and the proactive way in which its president and parliamentarians are working to better the lives of Ugandans.

I would like to thank the High Commissioner of Uganda to Canada, His Excellency Mr. George Marino Abola, who worked hard with our delegates by educating us on the challenges and struggles that many Ugandans are currently facing.

Honourable senators, I am sure that all of you would be extremely proud of our honourable colleague Senator Oliver for his great work. Senator Oliver was the head of the delegation and, since 2006, has been the president of the Canadian Group of the Inter-Parliamentary Union. Senator Oliver is also a member of the IPU executive committee, co-chair of the World Trade Organization Parliamentary Conference and a member of the Gender Partnership Group.

Not only did Senator Oliver work tirelessly at the conference, but he also reached out to all of the speakers present at the conference and held many bilateral meetings with the Ugandan ministers.

Senator Oliver, I know I speak for all Canadian delegates who joined you in Uganda when I say that you represented Canadian parliamentarians and Canada extremely well.

I would also like to take this opportunity to thank Mr. Serge Pelletier, who was the Executive Secretary to the Canadian IPU Group. Mr. Pelletier worked hard to ensure Canada was represented well and worked with a smile under very difficult conditions. He and his team did a great job in ensuring that all the delegates were well supported.

I am very pleased to tell you that our honourable colleague, Senator Dawson, was elected in a competitive election to the Advisory Group to the IPU Committee on United Nations Affairs. Congratulations, Senator Dawson.

Honourable senators, I am sure that you have all heard our honourable colleague Senator Ataullahjan speak of her role as a co-rapporteur on maternal health. Over the years, she has worked very hard on this issue and I very am pleased to inform you that she was considered one of the experts on the issue, one to whom the parliamentarians often turned when discussing how we could successfully reach our Millennium Development Goals.

Senator Ataullahjan, who was supported by Ms. Allison Goody, did an excellent job of ensuring that the maternal health issues were brought forward and given the consideration they so desperately require.

Although it will be a long time before Uganda will have another opportunity to host IPU delegates, I am confident that this year's conference is one that Ugandans will proudly be talking about for many years to come.

## VISION HEALTH MONTH

**Hon. Asha Seth:** Honourable senators, can you all see me well? I know that, for some of us in this room, our eyes are not as sharp as they should be. That is why May is Vision Health Month. The Canadian National Institute for the Blind is launching a month-long campaign to educate Canadians about vision health and the importance of caring for our eyes to eliminate avoidable sight loss.

Our campaign message this year is: "Eyes are for life." As part of Vision Health Month, CNIB has launched the Shades of Fun campaign to raise awareness about vision health to elementary and middle school students across Canada.



At this moment, I want to encourage all honourable senators to put on their Shades of Fun sunglasses in support of vision health for all Canadians.

Honourable senators, I want to thank everyone who attended today's CNIB's "Eyes are for Life" reception for their support, especially our gracious hosts, the Honourable Noël Kinsella and the entire CNIB team. The team joins us today in the gallery.

The reception highlighted the continued development of a national digital library HUB, a database to support service delivery to Canadians with print disabilities. Currently, only five per cent of all published works are available in alternative formats. In February 2011, the CNIB was given funding by the federal government to: "make progress in support of the development of long term funding and service arrangements with provincial and territorial governments and other stakeholders for ongoing accessible library service." The HUB digital database will be a tangible result of these investments.

The database will provide more than 100,000 alternative format titles and create innovative digital platforms and programs to reach almost 1 million Canadians with print disabilities.

It will also help stimulate the Canadian economy and publishing sector by contracting to Canadian private producers interested in alternative format material.

Albert Einstein once said, "Small is the number of people who see with their eyes and think with their minds."

Today, I am confident that we are on the right path to increasing those numbers considerably and giving all Canadians equal access to information and education. Honourable senators, along with your continued support, the CNIB will work over the next five years to develop this much needed project.

Please continue sharing the importance of vision loss prevention this month and all year so that we can fight blindness and see a clearer tomorrow.

**Hon. Senators:** Hear, hear.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I would like to draw your attention to the presence in the gallery of representatives from the Canadian National Institute for the Blind.

On behalf of all honourable senators, welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear.

### ACCESS TO CIVIL LEGAL AID

**Hon. Catherine S. Callbeck:** Honourable senators, access to civil legal aid in this country has become a crisis. We have all heard stories about people going to court and representing themselves because they could not afford a lawyer or get legal aid.

As a result, the rights and interests of low and middle-income Canadians — those who need assistance the most — continue to be overlooked with regard to access to justice.

The Community Legal Information Association, CLIA, in my home province has numbers to demonstrate the need for more comprehensive civil legal aid. Last year, CLIA fielded more than 1,600 telephone inquiries. More than 22,000 people checked its website. CLIA gave out over 26,000 information booklets. These are big numbers for a small province.

As well, more than 1,250 people took advantage of its lawyer referral program, whereby a person pays \$25 for 45 minutes with a lawyer.

Last fall, CLIA and the P.E.I. Advisory Council on the Status of Women worked together to host a Think Tank on Access to Family Justice.

The Honourable Gerard Mitchell, a retired Chief Justice and long-time proponent of improved access to legal aid, provided the opening remarks. He said:

Governments may not have unlimited funds, but they can set priorities as to how public monies are spent and how public resources are allocated. What good are governments if they cannot protect the poor and the vulnerable? Legal aid for these should be a government priority.

• (1350)

In response to the desperate need for family law services, the Community Legal Information Association has established a workshop for those experiencing a custody and access dispute. Every month, a local lawyer donates his or her time and explains what to expect in court, how to meet the "best interests of the children" and other ways to resolve disputes outside of court.

The demand has been high. The next course begins May 29, but it is already full. There is a waiting list for the session in June. Fortunately, the group has now received three years of funding from the United Way, ensuring that self-represented litigants will be able to cope a little better with the court system.

While a patchwork of excellent projects like this exists, there must be a more concerted national effort. It is a fact that many Islanders, indeed many Canadians, struggle to access justice. Though funding for family legal aid comes through the Canada Social Transfer, many provinces have been requesting separate, specially earmarked funding for family legal aid. I urge the federal government to reconsider this option, and I urge them to work with the provinces to create a national funding stream for this much needed service.

## ROUTINE PROCEEDINGS

### CRIMINAL CODE CANADA EVIDENCE ACT SECURITY OF INFORMATION ACT

#### BILL TO AMEND—SECOND REPORT OF SPECIAL COMMITTEE ON ANTI-TERRORISM PRESENTED

**Hon. Hugh Segal**, Chair of the Special Senate Committee on Anti-terrorism, presented the following report:

Wednesday, May 16, 2012

The Special Senate Committee on Anti-Terrorism has the honour to present its

#### SECOND REPORT

Your committee, to which was referred Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, has, in obedience to the order of reference of Thursday, March 8, 2012, examined the said Bill and now reports the same with the following amendments:

1. *Clause 10, page 10*: Replace line 36 with the following:

“(13) The judge, or any other judge of the same court, may, on application of the”.

2. *Clause 12, page 11*:

- (a) Replace, in the French version, line 27 with the following:

“83.28, 83.29 et 83.3 et de leur application doit”;  
and

- (b) Replace, in the French version, line 31 with the following:

“cas, désigne ou constitue à cette fin.”.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

HUGH SEGAL  
*Chair*

(For text of observations, see today's Journals of the Senate, p. 1289.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Segal, report placed on the Orders of the Day for consideration two days hence.)

[Translation]

### OFFICIAL LANGUAGES ACT

#### BILL TO AMEND—FIRST READING

**Hon. Maria Chaput** presented Bill S-211, An Act to amend the Official Languages Act (communications with and services to the public).

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Chaput, bill placed on the Orders of the Day for second reading two days hence.)

### L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

#### BUREAU MEETING, FEBRUARY 8-10, 2012—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF), respecting its participation at the Bureau Meeting of the APF, held in Phnom Penh, Cambodia, from February 8 to 10, 2012.

#### MEETING OF THE EDUCATION, COMMUNICATION AND CULTURAL AFFAIRS COMMITTEE, MARCH 29-31, 2012—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF), respecting its participation at the Education, Communication and Cultural Affairs Committee of the APF, held in Brussels, Belgium, from March 29 to 31, 2012.

#### MEETING OF THE COOPERATION AND DEVELOPMENT COMMITTEE, APRIL 1-5, 2012—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF), respecting its participation at the meeting of the Cooperation and Development Committee of the APF, held in Delémont, Jura, Switzerland, from April 1 to 5, 2012.



CONFERENCE OF BRANCH CHAIRS OF THE AMERICA  
REGION, APRIL 13, 2012—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF), respecting its participation at the Conference of Branch Chairs of the America Region of the APF, held in Toronto, Ontario, on April 13, 2012.

EXECUTIVE COMMITTEE OF THE NETWORK  
OF WOMEN PARLIAMENTARIANS,  
MARCH 14-16, 2012—REPORT TABLED

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF), respecting its participation at the Executive Committee of the Network of Women Parliamentarians of the APF, held in Athens, Greece, from March 14 to 16, 2012.

**RULES, PROCEDURES AND  
THE RIGHTS OF PARLIAMENT**

FIRST REPORT OF COMMITTEE—NOTICE OF MOTION  
TO DISCHARGE REPORT FROM ORDER PAPER  
AND REFER TO COMMITTEE OF THE WHOLE

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

That this Committee of the Whole meet each Tuesday the Senate sits after the adoption of this motion, at the end of Government Business, until its work is completed, without having to report progress and seek leave to sit again;

That, while this Committee of the Whole is meeting the provisions of rules 6(1), 13(1), and 84(2) be suspended, with the Senate continuing to sit until the committee has completed its work for that day;

That business of this Committee of the Whole be conducted according to the following schedule:

- (a) during the initial period of the first meeting senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes' speaking time allowed under rule 84(1)(b);
- (b) after this initial period, which shall last a maximum of one hour, the committee shall consider chapters one, two, three, and four of the First Appendix of the report for a maximum of one additional hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

(c) during the initial portion of the second meeting the committee shall consider chapters five, six, seven, eight, and nine of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;

(d) during the second portion of the second meeting, the committee shall consider chapters ten, eleven, and twelve of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

(e) during the initial portion of the third meeting, the committee shall consider chapters thirteen and fourteen of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;

(f) during the second portion of the third meeting, the committee shall consider chapters fifteen and sixteen and the appendices of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters and appendices successively, without further debate or amendment;

(g) after completing its consideration of the First Appendix of the report at the end of the third meeting, the committee shall consider its recommendation to the Senate as to whether or not the report should be adopted, with amendments if appropriate, for a maximum of 30 minutes, after which the chair shall interrupt proceedings to put all questions necessary to dispose of any business successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

That, as a general practice, the committee consider the First Appendix of the report chapter by chapter, and, in particular, it shall proceed in this manner if the chair is required to interrupt proceedings to put all questions; and

That the chair report the result of the committee's work, with a recommendation to adopt the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament or not, along with any proposed amendments, during Presentation of Reports from Standing or Special Committees during Routine Proceedings as soon as convenient after it has completed its work.

• (1400)

[English]

## QUESTION PERIOD

### ATLANTIC CANADA OPPORTUNITIES AGENCY

#### APPOINTMENTS

**Hon. Terry M. Mercer:** Honourable senators, I asked the Leader of the Government in the Senate weeks ago, then a second and a third time, about budget cuts and hirings at the Atlantic Canada Opportunities Agency. I also said that in the recent federal budget, funding to ACOA was reduced by almost \$17.9 million per year — 21 per cent of ACOA's \$84.6 million operating budget. I also asked the minister before about high-paying jobs going to Peter MacKay's friends at ACOA. For example, John Lynn was hired by Enterprise Cape Breton Corp., under then minister responsible for ACOA, Peter MacKay; Kevin MacAdam, a former MacKay staffer, was hired as Director General of Regional ACOA Operations in Prince Edward Island; Patrick Dorsey, former senior adviser to Premier Binns, was named ACOA's vice-president in P.E.I. in 2007, when Mr. MacKay was the minister responsible; and, of course, Cecil Clarke landed himself a job as a consultant at the Cape Breton County Economic Development Agency.

In the wake of another round of pink slips to hard-working career public servants in federal departments, I note that none of the above names make the list. Could the minister tell honourable senators when these people will get their pink slips, considering that their jobs are costing hundreds of thousands of dollars to the federal purse?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, with regard to any cuts, as the senator calls them, to the Atlantic Canada Opportunities Agency — just in case Senator Mercer was wondering what its name is — all of ACOA's programs remain solidly funded. They will continue as they have in the past to help small- and medium-sized enterprises to create jobs and growth in the Atlantic region. Over the coming weeks and months, ACOA will inform unions and employees about specific changes and will communicate these changes accordingly.

Many people have received notices, not pink slips as the senator refers to them, such that their jobs could be affected, which does not necessarily mean that they will lose their jobs. It means that jobs will be affected and there might be other opportunities for them.

Delivering ACOA's programs more efficiently and effectively is an integral part of the government's 2012 Economic Action Plan to create jobs, growth and long-term prosperity. ACOA remains focused on small- and medium-sized enterprises to seize the opportunities coming to Atlantic Canada. Some of those opportunities are in connection with the naval shipbuilding procurement strategy, as well as other small- and medium-sized enterprises in Atlantic Canada.

Honourable senators, there are strict rules in place around the hiring practices at ACOA to ensure that agencies run their own competitive process free of political interference. These rules are important and must be respected.

**Senator Mercer:** Is that not interesting? I thank the minister; that was very enlightening. It is always good to be here in fantasy land.

I find the answer curious. It has come to the attention of honourable senators on this side that the Public Service Commission of Canada is investigating 11 employees for inappropriate hires at ACOA. That does not sound like everything is right. According to *The Chronicle-Herald* last week, and I am sure the leader will find something bad to say about them, the Public Service Commission of Canada is currently conducting six investigations under section 68 of the Public Service Employment Act, which happens to ban political influence in hiring non-partisan people in departments. Could the leader confirm that any of the people hired under this clause are the good friends of Peter MacKay, whom we have asked before to have removed?

**Senator LeBreton:** The senator says I might have something bad to say about *The Chronicle Herald*. I do not have anything bad to say, but by the same token, I have nothing good to say either.

I do not answer for the Public Service Commission of Canada. The commission operates independently and conducts its investigations. I will only repeat government policy. There are strict rules in place, and it is important that these rules be respected.

**Senator Mercer:** There may be rules in place, but it appears that some of these rules may have been broken.

I anticipated the leader's answer because she does not seem to get it. Apparently another five investigations are taking place under section 66 of the PSEA, where an employee is not hired on the basis of merit. They are hiring people who do not have the proper qualifications. People may have been hired because they were good friends of Mr. MacKay and the current minister for ACOA. However, the current minister says he knows of no cases of patronage and is adamant that he wants to know if it did happen.

Honourable senators, there are two separate investigations so far into the hirings at ACOA. When will this government take the right steps, fire these people and retain the good, hard-working public servants who have been serving Atlantic Canadians so well for so long?

• (1410)

**Senator LeBreton:** Honourable senators, there is no doubt that ACOA has been serving Atlantic Canada very well for a very long period of time. I am not privy to the workings of the Public Service Commission, nor should I be or would I want to be. The senator would be the first one skinning the hide off of me if I were ever involved in such a process.

There are strict rules in place surrounding hiring practices to ensure that agencies run their own competitive processes free of political interference, and we believe that it is important that the rules be acknowledged and respected.



**Hon. Jane Cordy:** We know that Cecil Clarke, who was a failed Conservative candidate, is making a higher salary than the executive director of UCBC, which is unusual since it was an invented job, a job created just for him.

Kevin MacAdam, who is also a failed Conservative candidate and a former staff member for cabinet Minister MacKay, makes between \$115,000 and \$135,000. We do not have the exact salary. He has not actually started to work in Prince Edward Island yet because he is still taking French courses, ironically in the Ottawa region, not in Prince Edward Island where his job is located. He has not yet been to Prince Edward Island to begin his job.

Could the minister tell us how many ACOA employees besides Mr. MacAdam are taking French language training, how long their French language training is taking, and where they are taking their French language training?

**Senator LeBreton:** Honourable senators, I will not engage in personal attacks on individuals — other than those who are in front of me.

Neither I nor the government involve ourselves in ACOA's hiring practices. There are strict rules in place for these agencies. There is a competitive process that they must follow. I cannot answer any more explicitly than I answered Senator Mercer. These rules are important and rules must be respected. That is exactly what my colleague, the minister responsible for ACOA, has been saying, because that is the fact.

**Senator Cordy:** Honourable senators, rules are extremely important and that is why it is unfortunate that they have not been followed by this government. No matter what my honourable friend says about the government not involving itself in ACOA business, it is a bit of a stretch to say that this is a coincidence. There are too many failed Conservative candidates who have jobs there to believe this government has not been involved in some hirings.

Is Mr. MacAdam on travel status when he is in Ottawa?

**Senator LeBreton:** Again, honourable senators, I have no knowledge whatsoever of Mr. MacAdam's whereabouts. I can only say that there are rules in place and that the government believes they must be followed.

[Translation]

## AUDITOR GENERAL

### BILINGUALISM OF SENIOR PUBLIC SERVANTS

**Hon. Pierre De Bané:** Honourable senators, my question is for the Leader of the Government in the Senate. A preliminary report by the Commissioner of Official Languages, released April 30, confirmed that the appointment of a unilingual Auditor General by the Prime Minister was a violation of the Official Languages Act.

Since November 2011, the Commissioner has received a large number of complaints expressing serious concerns about the appointment of a unilingual officer who does not report to the government, but to Parliament, where English and French have equal status.

In response to these concerns, the Conservative government provided assurances that the Auditor General is committed to completing 1,400 hours of French language training in order to attain the level of bilingualism he requires to carry out his duties. The government's commitment to Canada's linguistic duality continues to be met with skepticism by many Canadians.

How many hours of language training has the Auditor General actually completed to date? Which components of the training has he completed since he was appointed? Could the leader tell us what progress he has made?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I cannot, because the Auditor General is an officer of Parliament approved by both Houses of Parliament. As a result of a request from the Leader of the Opposition, Senator Cowan, I tabled a response on behalf of the Auditor General. I would expect that since the Auditor General is an officer of Parliament, the person to whom Senator De Bané should direct his question is the Auditor General himself.

[Translation]

**Senator De Bané:** Honourable senators, in this climate of austerity, it is quite unreasonable for a senior public servant who is an officer of Parliament to spend 1,400 hours to meet job criteria that he should have met before his appointment, while carrying out his duties as the Auditor General of Canada.

The duties of the Auditor General are very taxing and demanding. Could the leader tell us how much time Mr. Ferguson spends studying French in relation to the time he spends doing his job as Auditor General of Canada?

[English]

**Senator LeBreton:** Honourable senators, I cannot, but going back to when the Mr. Ferguson's name was presented to Parliament, it was indicated that the government sought out a bilingual candidate. Obviously, we were also looking for the very best person to do the job. Mr. Ferguson made a commitment to learn the language. He had significant knowledge of it before he took the position.

I think all would agree, including senators on the other side, that the Auditor General is doing a very good job in his position. I would not impugn his commitment to his job and the work he is doing by suggesting that one was going to be at the expense of the other.

I did table a letter in the Senate on behalf of the Auditor General as a result of questions by the Leader of the Opposition in the Senate, Senator Cowan.

• (1420)

The Auditor General answers to Parliament; he does not answer to the government. He is a parliamentary officer. Again, I would suggest that if the senator feels that the Auditor General is

not able to both take French lessons and also perform his duties as an Auditor General, perhaps he might like to tell him directly. I think most people would disagree.

**Senator De Bané:** Honourable senators, I am absolutely certain that if I recommended someone to you and gave you the assurance that he is absolutely outstanding but, on the other hand, he can only work in the position that you want to fulfill for 600 hours out of the 2,000 a year because he has to spend 1,400 hours on something else, you would say, "Well, I do not disagree that he is most competent but, if he can give only me 600 out of 2,000 hours, that is not enough."

Here we are talking about someone who has to manage over 600 professional people, and he can devote about a third of the time to that heavy job. I am sure the leader would say no to an applicant that could give her only a third of the time when she needs someone full-time. Would the leader agree with that?

**Senator LeBreton:** First of all, the Auditor General is an officer of Parliament. He appeared before us in the Senate. I think it is fair to say that the Auditor General is a very well qualified individual. Clearly, he came with tremendous recommendations. He had been an auditor general in the province of New Brunswick and a deputy minister of finance in the province of New Brunswick. I would never suggest that because a person took the time to learn Canada's other official language — and in his case he had a good solid background, as we saw —, somehow or other their responsibilities were compromised in any way, especially not someone of the calibre of the Auditor General.

**Hon. James S. Cowan (Leader of the Opposition):** If I could follow up, I agree entirely with the questions that my colleague has put forward. This is not an issue of his competence as an auditor. No one on this side and no one in the other place questioned his ability as an auditor, either in New Brunswick or here. Any suggestion by you or anyone else that that is incorrect is wrong and is not fair. The leader of the government may shake her head, but we made it absolutely clear when he was before us that we had no quarrel with his competence as an auditor.

However, as Senator De Bané has pointed out, this is a very critical job which the government itself said required competence in both of Canada's official languages, not a willingness and an ability to learn the second language at some future time, but to be bilingual at the time that he or she was appointed. That is what the government said and that is what the government put forward. The quarrel is not with Mr. Ferguson. The quarrel is with the government.

The question that Senator De Bané has put is an absolutely fair one. How can a person fulfill that job when the answer that was provided to me in response to my question said that 1,400 hours of language training was required to reach the agreed level of competency? The answer provided to me said that this was essentially full-time language training. If he is engaged in full-time language training, who is acting as Auditor General?

**Senator LeBreton:** I think from the questions I got in here that you actually believe Mr. Ferguson is acting as Auditor General.

Actually, honourable senators, I have to confess that I am shocked by this line of questioning. The fact of the matter is that the Auditor General, in good faith, made a commitment to Parliament. He is an officer of Parliament. There is nothing more I am going to say about this. He is an officer of Parliament. He did appear before both the house and the Senate. To go back and rehash old arguments does not in any way advance this issue. As I said before, and I will say it again, obviously, in this case, and I put it on the record many times, Mr. Ferguson was chosen after an extensive search and was deemed to be the best candidate available. He has since his appointment proven very specifically that in fact he is and was the best candidate available. I would suggest that if the senator has a problem with the response the Auditor General provided to me and I tabled in the Senate, the senator should take it up with him directly.

**Senator Cowan:** The problem we have is not with the Auditor General. It is with the government that puts in place a process that indicates to us as parliamentarians and that indicates to prospective candidates for the position that in order to apply one has to be fluent in both of Canada's official languages. It is the leader's government that has put Mr. Ferguson in an absolutely impossible position. That is our problem.

**Senator LeBreton:** I think if you check the record, we have been around this issue for a considerable amount of time. The fact of the matter is that we have an excellent individual in the position of the Auditor General. He is an officer of Parliament. In our *Roadmap for Canada's Linguistic Duality*, the government has a tremendous record of advancing both of Canada's official languages. We have a minister in the person of James Moore working very hard with our various communities.

With regard to the Auditor General, he is an officer of Parliament. If there is some aspect of his performance that the senator has difficulty with, and he keeps saying he does not and it is the government, then there is nothing more that could be added to this, honourable senators. The Auditor General is in place. As he committed to do, he has made available to Parliament his intentions to become officially bilingual, and I do believe that he is a man of his word.

[Translation]

## ENVIRONMENT

### RIO + 20 SUMMIT—OFFICIAL OPPOSITION PARTICIPATION

**Hon. Roméo Antonius Dallaire:** Honourable senators, I believe that the government is playing with words when it comes to one of our country's key values, linguistic duality, and legislation that dates back to 1969. The legislation has been in existence for almost 45 years. We are faced with the unimaginable. In all departments, certain criteria must be met to fill top jobs at the EX-1 level and higher, and in the armed forces, at the rank of colonel and above. These positions require at least functional bilingualism. Yet an individual was appointed to a position with important national responsibilities, without meeting that language requirement, because the government felt he would do a good job.



Some of us studied in the evenings and on weekends, without taking any courses, in order to learn English and become bilingual. We did it to be promoted and to carry out the duties assigned to us. We are talking about someone who is at the pinnacle of his career and who will be offered a course in addition to his job. Do not tell me that this is honest, responsible and progressive and that it is in keeping with the fundamental law on bilingualism in our country.

[English]

**Hon. Marjory LeBreton (Leader of the Government):** The honourable senator is suggesting that the Auditor General has not the same capabilities as he had to learn the other official language on the timetable that he is on. You cannot have it both ways. He made a commitment to Parliament. He is an officer of Parliament. He obviously is serious about his commitment about learning. I point out he did not start at zero in terms of his ability to speak and understand the other official language. If Senator Dallaire was able, as he stated in his question, to learn Canada's other official language — that is, a language other than the one of his birth — and that was English, then to suggest that Mr. Ferguson could not learn French makes no sense to me.

• (1430)

**Senator Dallaire:** Honourable senators, we must have lost something in the translation —

**The Hon. the Speaker:** Order, order! Senator Munson has the floor.

**Some Hon. Senators:** Oh, oh!

**The Hon. the Speaker:** I will explain, honourable senators. We have had a series of supplementary questions to Senator De Bané's question. If we have many supplemental questions from one senator, then a number of senators that I can recognize, knowing that they wish to speak, will not be able to speak. We have half an hour.

Senator Munson has the floor.

[Translation]

**Hon. Jim Munson:** Honourable senators, I can ask my question in French, that is not a problem, but with regard to Mr. Ferguson, that is a whole other story. It is not a problem for the opposition because we have a lot of questions. Bilingualism in Parliament is a very important issue.

[English]

Honourable senators, I was thinking of a good old time. I am sure the leader remembers those good old days when she worked for Prime Minister Mulroney and when I worked for Mr. Chrétien. Were those not wonderful days? She must have known because she was there doing what she had to do. We talked about issues dealing with opposition MPs and others travelling with the Prime Minister on big conferences.

I remember, being a reporter, sitting on a plane and seeing both opposition MPs and senators. The leader must remember when Mr. Mulroney would invite opposition MPs and senators to be on these trips. Were those not the good old days?

[ Senator Dallaire ]

Last night in the House of Commons, on the other side, there was a simple question from opposition members to Minister Kent, the Environment Minister guy. He was asked if he would be permitted to have opposition members go to the Rio + 20 Summit. For those who do not know, Rio is where the United Nations Conference on Sustainable Development will take place. I have no doubt that we will see business and industry representatives there and that oil sands producers will be among the delegates.

I am asking the leader to think back to the good old days when opposition members were allowed to get on that big airplane with the other ministers and prime ministers to go to these conferences and to have a point of view.

By saying “no” — because, amazingly, the minister said “no” last night — is this yet another attempt by the government to silence dissenting views? Is that the rationale for excluding members of the opposition from the official Canadian delegation being sent to the Rio + 20 Summit? Keep thinking of those good old days.

**Senator LeBreton:** Honourable senators, I do not know whether we can describe them as “good old days” because of where Mr. Chrétien's legacy ended up and where Mr. Mulroney's ended up. I do not know if we can describe them as “good old days.”

I do not know the circumstances about the question to Mr. Kent; I will have to find out. I do know that recently Minister Baird travelled to different places. I believe I read somewhere that there were members of the opposition travelling with him. I will have to take the honourable senator's question as notice and find out exactly the context. I do not know if it was in the debate late last night, but I will take the honourable senator's question as notice.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table the response to an oral question raised by Senator Jaffer on March 28, 2012, concerning child sex tourism.

## JUSTICE

### CHILD PROSTITUTION—SEX TOURISM

(Response to question raised by Hon. Mobina S. B. Jaffer on March 28, 2012)

#### Extra-Territorial Jurisdiction and Enforcement:

The *Criminal Code* was amended in 1997 to allow Canada to assume extra-territorial jurisdiction to prosecute citizens or permanent residents who sexually abuse children while abroad (subsection 7 (4.1)) (“child sex tourism”). Dual criminality is not required. A Canadian prosecution requires the consent of the Attorney General of the province in which the Canadian is resident in all cases. Another pre-requisite (a request from the foreign State where the offence was alleged to have been committed) was repealed in July 2002 to simplify the process.

The international consensus on child sex tourism is that persons who sexually abuse children must be held accountable: the primary obligation to prosecute travelling child sex offenders rests with the destination country and, where this does not occur, Canada can prosecute the Canadian or permanent resident of Canada.

The international law enforcement community is aware that offenders travel to several regions of the globe, such as Africa, South and Central America and South East Asia (including Thailand, Cambodia and the Philippines) for the purpose of engaging in unlawful sexual activity with children. Canadian law enforcement involved in the investigation of all forms of child sexual exploitation works closely with their foreign counterparts to combat this phenomenon. The RCMP's Canadian Police Center for Missing and Exploited Children (CPCMEC) is the national law enforcement coordination center for child sexual exploitation cases. The CPCMEC receives information relating to travelling child sex offenders and coordinates investigations with Canadian and foreign law enforcement agencies, on a case by case basis.

#### Convictions of Canadian Travelling Child Sex Offenders:

The Department of Justice is aware of four convictions under Canada's child sex tourism provision: Bakker (sentenced to 10 years imprisonment in 2005); Huard and Rochefort (sentenced to two and three years imprisonment respectively in 2008); and, Klassen (sentenced to 11 years imprisonment in 2010). As well, the Department of Foreign Affairs is aware of 166 cases since 1997 where Canadians have been charged / prosecuted for child molestation by destination countries.

#### Other Relevant Legislation:

On April 15th, 2011, the *Protecting Victims from Sexual Offenders Act* (S.C. 2010, c.17) came into force, which included specific provisions targeting travelling child sex offenders. Specifically, individuals convicted of a sexual offence abroad are now able to be included on the national Sex Offender Registry. In addition, any individual entering Canada who at any time has been convicted abroad of a sexual offence must report to police within seven days so that they may be included on the Registry.

It also made registration automatic upon domestic conviction for any sexual offence. Every individual required to register must report regularly to police and provide personal data, such as their home and business addresses, their vehicle information, and they must also report any plans they have to travel either domestically or abroad.

The *Safe Street and Communities Act* (S.C. 2012, c.12), which received Royal Assent on March 13, 2012, adds section 172.1 (luring a child) to the *Criminal Code* and new offences in sections 171.1 (making sexually explicit material available to a child) and 172.2 (agreement or arrangement — sexual offence against a child) to subsection 7(4.1). These amendments will come into force on a day or days to be fixed by order of the Governor in Council.

Private Member's Bill C-310, *An Act to Amend the Criminal Code (trafficking in persons)*, which was considered by the Standing Committee on Justice and Human Rights in March 2012 and adopted at Report Stage in the House of Commons on April 4, proposes to add the trafficking in persons *Criminal Code* offences (sections 279.01- 279.03) to subsection 7(4.1) to provide Canada extra-territorial jurisdiction to prosecute these offences. The Government supports this Bill.

#### Federal Coordination:

In 2010, a federal working group was established, co-led by the RCMP and Public Safety, to provide a forum for information-sharing and coordination on the issue of travelling child sex offenders. This group continued to meet throughout 2011 and served as a key forum for information-sharing among a growing number of partners.

#### Consular Issues:

The Consular Section of Canada's offices abroad may, in consultation with Foreign Affairs and International Trade Canada (DFAIT) in Ottawa, provide assistance in cases involving children, such as international child abductions, sexual exploitation, trafficking, international adoptions and custody cases.

Consular staff is provided with training at headquarters and abroad to better manage complex consular cases. Consular case management training is given by departmental subject-matter experts and covers various subjects including arrest and detention cases and children's issues.

The Consular Branch at DFAIT is also working with partner departments, including Public Safety Canada and the Royal Canadian Mounted Police, to examine ways in which DFAIT might assist with the implementation of the *Sex Offenders Information Registration Act*, which imposes a reporting requirement on people who are convicted of sexual offences abroad.

[English]

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Di Nino, for the second Reading of Bill C-290, *An Act to amend the Criminal Code (sports betting)*.



**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

(Motion agreed to and bill read second time, on division.)

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

### NATIONAL FLAG OF CANADA BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Wallin, seconded by the Honourable Senator Martin, for the second reading of Bill C-288, An Act respecting the National Flag of Canada.

**Hon. Francis William Mahovlich:** Honourable senators, it is a great honour for me to rise today to speak on Bill C-288, An Act respecting the National Flag of Canada.

**Some Hon. Senators:** Hear, hear!

**Senator Mahovlich:** Like so many in this chamber, I am proud of our flag and all that it represents. I feel strongly that anyone should be allowed to display it to show their national pride.

As has been noted previously by Senator Wallin and others, this legislation was proposed because there are Canadians, including veterans who fought for our country under the flag, who have been asked not to display the Canadian flag in their own home because it contravenes rules that are in place to make the exterior of a building look clean and uniform.

I feel that this is shameful. While it may not have been the intent of the rules of these residential buildings, it is important to clear up any misinterpretations that may have taken place. That is what I feel this bill will do.

The purpose of this bill is to ensure that all Canadians are encouraged to display the national flag of Canada in accordance with the flag protocol. The preamble of the bill states, in part:

Whereas the Canadian flag is the symbol of the nation's unity;

Whereas the Canadian flag represents the principles of freedom, democracy, courage and justice upon which our great nation is based;

Whereas the Canadian flag represents all the citizens of Canada;

Whereas the Canadian flag represents pride in our great nation and support for those who have sacrificed their lives for it. . . .

Honourable senators, I am certain everyone here will agree with these words. The first sentence in this preamble is one that really struck a chord with me: "The Canadian flag is a symbol of the nation's unity."

Symbols are a powerful thing. They have been known to bring out intense emotions in people. If I may, I would like to take time here to relate a story about what happened to me when I was in the travel business. I went to St. Moritz, Switzerland, where Barbara Ann Scott won her Olympic medal. I had group of skiers, about 40 couples, and we had organized a ski event and a hockey game. We played the locals of St. Moritz on the outdoor rink where Barbara Ann Scott skated.

I can remember the tourism official saying that if I went over there, the ice was so clear, because there was no pollution, that you could see the fish swimming underneath the ice while you were playing hockey. It was quite an experience, and we happened to win the hockey game.

• (1440)

The next morning, I went up on a hill to ski, and I looked down. On the top of the hotel — a huge dome — they had taken down the Swiss flag and put up our Canadian flag. I said to myself that Herr Hoffer was a very generous person to fly that flag. When I came down after skiing, my wife was very upset. Herr Hoffer had called us and was calling a meeting. That meeting was very serious. After the party, two dentist friends of mine went up on top of the roof, took down the Swiss flag and put the Canadian flag up, without asking permission.

Mr. Hoffer was going to call in the reserves. I said, "Do not do a thing. I will discipline these people myself, and everything will be all right." He backed off and thank goodness. They got a talking to from my wife, mind you, and it never happened again. I just thought I would pass that little story on. You have to respect the country that you are in.

Flags do have the power to divide and strike fear in people, but they also have the power to unite and to bring a tremendous sense of pride to a whole country.

Outside of Canada, we can find many good examples to show the significance and importance of symbols as national unifiers.

For centuries, people have fought battles under the banner of their country or region's flags. Even elements of flags can bear strong symbolic significance.

[Translation]

The Cross of Lorraine dates back to the Crusades, but during the Second World War, the Free French Forces adopted it as their symbol.

[English]

I would also like to mention that the Cross of Lorraine was also the symbol that Joan of Arc fought under, so it is clear that this symbol has quite a bit of history to it. The Free French Forces were launched by Charles de Gaulle and worked as part of the resistance against the axis powers of occupied France. While the cross was first used in 1940, as a symbol of this group, it later became the symbol to unite the numerous factions of the resistance and liberation of occupied France.

So strong did this symbol become that it can still be found today. I have one of the flags of the Free French Forces in my pocket. If anyone wants to see it, they can see me later. It can be found at numerous French war memorials of the Second World War and can be seen on numerous French medals and orders that have been given in recognition of those who fought in the resistance and for the liberation of France.

I would like to tell honourable senators a little story. Years ago, I developed an allergy to ragweed, and the doctors told me that if I went near the ocean, it would not be as bad. My wife wanted to go to France, and I took her to Saint-Pierre and Miquelon.

The tourism officer was touring us around. He took us on a boat to a little abandoned island. There was an old schoolhouse there, and under one of the chairs there was a ragged, old flag. My wife picked it up and has kept it ever since. That was 35 years ago. When I was asking her about the trip, she brought the flag out, so I have it here in my pocket if anyone cares to see it.

My point, honourable senators, is that such a small symbol as the Cross of Lorraine had the power to unite the whole country, on all sides of the political spectrum, so that they could fight for their principles, the same principles I read from the preamble of this bill — freedom, democracy, courage and justice. That small symbol gave them pride in their country, just as our flag gives us pride in ours.

[Translation]

Speaking of our flag, how did we come to be so proud of it?

[English]

As senators well know, it was not until 1965 that we had the Canadian flag that we all know and love today. Before that time, we had the Royal Union Flag and the Canadian Red Ensign as our de facto flags.

With the one-hundredth anniversary of Confederation approaching, former Prime Minister Pearson made it an election promise to have a new flag for Canada to call its own.

I happened to call my friend Red Kelly just a few days ago, and brought to his attention the flag. He was there when they voted, and he was my roommate. He told me about it and told me that

they had a filibuster. They could not come to a decision and had to form a committee. While the committee sat down for the summer, he could go out golfing, and that is how the committee was formed.

The debate began on June 15, 1964, and lasted throughout the summer, until a special flag committee was created on September 10 of that year.

This committee was made up of 15 members of Parliament representing five different political parties.

While previous committees tasked with creating a new Canadian flag had failed, after 35 meetings held over six weeks and after reviewing the thousands of suggestions from across the country, the committee unanimously agreed to the design put forth by George Stanley.

On October 29, the committee's decision was reported to the House of Commons. Opposition leader John Diefenbaker disagreed with the committee's decision and argued against it for the next month and a half.

It was only on December 9 that John Diefenbaker's own Quebec lieutenant, Léon Balcer, invited the government to invoke closure and thus end the debate. So it was that at 2 a.m. on December 15, the committee's chosen design was approved by the House of Commons, by a vote of 163 to 78.

Approval from this chamber followed two days later. On January 28, 1965, Her Majesty signed a royal proclamation, officially making George Stanley's design the new Canadian flag.

The flag was first flown over Parliament Hill on February 15, 1965.

I will not stand here and say that this new symbol was not divisive at first. Many people still preferred the Red Ensign.

However, a large majority came to accept and even love the new flag because it was ours, a distinctive Canadian flag.

As journalist George Bain wrote the morning after the first flag had flown, Canada's maple leaf emblem "looked bold and clean, and distinctively our own."

Mr. Stanley clearly knew the power of symbols, for he believed that the new flag should draw from the traditions of both French and English Canada so that it could serve as a "unifying symbol."

In a letter he wrote to John Matheson, one of the members of the flag committee, he stated:

The single leaf has the virtue of simplicity; it emphasizes the distinctive Canadian symbol and suggests the idea of loyalty to a single country.

He understood the importance not only of having a strong a symbol on the flag but also of having a flag of our own that all Canadians could embrace.



In his letter, he continued:

A flag speaks for the people of a nation or community. It expresses their sorrow when it flies at half-mast. It honours those who have given their service to the state when it is draped over coffins. It silently calls all men and women to the service of the land in which they live. It inspires self-sacrifice, loyalty and devotion.

Honourable senators, surely there are no better reasons than these to ensure that Canadians are encouraged to display the national flag of Canada.

**Some Hon. Senators:** Hear, hear.

**Senator Mahovlich:** While our Canadian flag is only 47 years old, we still feel a strong tie to it, as a country. Perhaps that is because its main symbol, the maple leaf, dates back to the 18th century in New France when it was adopted as an emblem for some of the settlements along the St. Lawrence River.

[Translation]

In 1834, during the inaugural meeting of the Saint-Jean-Baptiste Society, the society adopted the maple leaf as its emblem.

• (1450)

[English]

Jacques Viger, the first mayor of Montreal, encouraged this decision and described the maple as “the king of our forest . . . the symbol of the Canadian people.” Since Confederation, the maple leaf can be found on the coat of arms of both Ontario and Quebec and, as of 1921, on the Canadian coat of arms as well.

Perhaps we feel such a strong tie to the maple leaf because of its role in one of the most important battles in our country’s history. The badge of the Canadian Expeditionary Force, which helped to capture Vimy Ridge, featured the maple leaf. As many senators know, this battle was significant because it was the first time all four Canadian divisions fought together, and their victory proved to be the turning point in the Great War. It helped to unite many Canadians in pride at the courage of their soldiers and established a feeling of real nationhood. While other military powers, such as France and Britain, were unable to capture Vimy Ridge, the young and inexperienced Canada did just that, all while bearing the maple leaf.

This national pride continues today as we recognize the men and women who serve in the Canadian Forces at home and around the world. They serve, still bearing the maple leaf. These soldiers risk their lives to serve our country. I believe it is the least we can do to allow them to fly the flag in their own homes, regardless of where they live.

When I was a member of Team Canada, in the “Summit Series,” it was not the individual players Canadians were cheering for. They cheered for our great nation of Canada. Ensuring that all Canadians are encouraged to display the national flag of

Canada in accordance with the flag protocol, as this bill aims to do, will only allow Canadians to keep cheering for our great country.

As I mentioned previously, the Canadian flag is 47 years old. To many honourable senators that may seem quite young. Others, however, might feel that it is just a ragged old flag and that we should not be making such a big deal about this bill. To those people, I would like to quote the lyrics from a poem by Johnny Cash.

I walked through a country courthouse square  
On a park bench, an old man was sittin’ there.  
I said, “Your old courthouse is kinda run down.”  
He said, “Naw, it’ll do for our little town.”  
I said, “Your old flagpole is leaned a little bit.  
And that’s a ragged old flag you got hangin’ on it.”  
He said, “Have a seat,” and I sat down.  
“Is this first time you’ve been to our little town?”  
I said, “I think it is.” He said, “I don’t like to brag,  
but we’re kinda proud of That Ragged Old Flag.  
“You see, we got a little hole in that flag there.  
When Washington took it across the Delaware.  
And it got powder burned the night Francis Scott Key  
sat watching it, writing “Say Can You See.”  
It got a rip in New Orleans,  
with Packingham & Jackson tugging at its seams.  
And it almost fell at the Alamo  
beside the Texas flag, but she waved on though.  
She got cut with a sword at Chancellorsville,  
And she got cut again at Shiloh Hill.  
There was Robert E. Lee and Beauregard and Bragg,  
And the south wind blew hard on That Ragged Old Flag.  
On Flanders Field in World War I  
She got a big hole from a Bertha Gun.  
She turned blood red in World War II.  
She hung limp, and low, a time or two.  
She was in Korea, Vietnam.  
She went where she was sent by her Uncle Sam.  
She waved from our ships upon the briny foam  
And now they’ve about quit wavin’ back here at home.  
In her own good land here, she’s been abused,  
She’s been burned, dishonoured, denied an’ refused.  
And the government for which she stands  
Has been scandalized throughout the land.  
And she’s getting threadbare, and she’s wearin’ thin,  
But she’s in good shape, for the shape she’s in.  
‘Cause she’s been through the fire before  
And I believe she can take a whole lot more.  
So we raise her up every morning  
And we take her down every night.  
We don’t let her touch the ground,  
And we fold her up right.  
On second thought.  
I do like to brag  
‘Cause I’m mighty proud of  
That Ragged Old Flag.

I believe that a vast majority of Canadians feel the Canadian flag is a symbol that unites us and makes us feel proud to be part of this country. They permanently mark their bodies in ink with a flag or a maple leaf to show that they are forever Canadian. Even as they travel the world, they sew the Canadian flag onto their backpacks to proudly show where they are from.

[ Senator Mahovlich ]

This summer, as they have many times previously, Canadians will drape themselves in red and white and everything Canadian to celebrate our national holiday on July 1 from coast to coast to coast.

Honourable senators, I cannot think of a more appropriate time for this bill to come into effect than just in time for Canadians to show their national pride while cheering on our athletes in London at the Olympic Games in just a few months' time. Canadians are proud of this symbol of the nation's unity. I feel the best way to foster this pride and help it grow further is to ensure that all Canadians are encouraged to display the national flag of Canada. This bill aims to do just that. I encourage all honourable senators to support it.

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question!

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the third time?

[Translation]

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

## OFFICIAL LANGUAGES

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON THE USE OF INTERNET, NEW MEDIA AND SOCIAL MEDIA AND THE RESPECT FOR CANADIANS' LANGUAGE RIGHTS—FOURTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Official Languages (*budget—study on the use of the Internet, new media and social media and the respect for Canadians' language rights—power to hire staff*), presented in the Senate on May 15, 2012.

**Hon. Maria Chaput:** Honourable senators, I move the adoption of the report.

Honourable senators, the committee began studying the use of the Internet, new media and social media and the respect for Canadians' language rights last fall. It has heard from more than 30 organizations to date and will be hearing from more witnesses until the end of June. The committee will present a report this fall.

Given the subject of the study, the committee believes that it should use new media in the context of its work on this study. It suggests using a video animation to present the highlights and conclusions of the report to be issued in the fall.

The committee suggests that the video animation be broadcast on YouTube in addition to being available on the committee's website.

• (1500)

During the public hearings, the committee learned that a number of federal and provincial institutions and many other organizations use YouTube more and more to communicate information to the public in an effective and interesting way. Specialized services for the creation of a video animation are not available in house. The committee is asking for \$15,000 to hire a professional service to create the video.

**The Hon. the Speaker pro tempore:** Are honourable senators ready for the question?

**Hon. Senators:** Question

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

[English]

## HUMAN RIGHTS

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE—SIXTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Human Rights (*budget—study on the rights of off-reserve Aboriginal Peoples—power to hire staff and to travel*), presented in the Senate on May 3, 2012.

**Hon. Mobina S. B. Jaffer** moved the adoption of the report.

She said: Honourable senators, the report before you is a budgetary request for the committee to travel to Western Canada as part of its study into the access of First Nations people who live off-reserve. Currently, there are disparities in the range of available programs and services for off-reserve band members. Recent court decisions have challenged the current federal policy framework, which attaches rights to residency on reserve rather than to the individual. For example, in *Corbiere v. Canada*, Minister of Indian Affairs and Northern Development Canada, the Supreme Court of Canada ruled that denying band members working rights based on where they live violated their rights to equality guaranteed by section 15 of the Canadian Charter of Rights and Freedoms.



The increasing off-reserve urbanization of Aboriginal peoples is continuing to amplify pressures for reform in this area.

[Translation]

On March 15, 2012, the Senate authorized the Standing Senate Committee on Human Rights to study this issue. As part of its study, the committee requested authorization to travel to Winnipeg, Saskatoon and Vancouver to hear from local stakeholders and raise awareness among Aboriginal people living in those cities. We plan to travel in November. This report sets aside enough money to enable the committee to travel and hold public hearings.

(On motion of Senator Comeau, debate adjourned.)

[English]

## CHARTER OF RIGHTS AND FREEDOMS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the 30th Anniversary of the *Canadian Charter of Rights and Freedoms*, which has done so much to build pride in our country and our national identity.

**Hon. Joseph A. Day:** Honourable senators, although I have not spoken to Senator Andreychuk, if honourable senators are agreed, I will speak for a few minutes to this motion and adjourn the debate in the name of Senator Andreychuk.

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Senator Day:** Honourable senators, on the thirtieth anniversary of the Canadian Charter of Rights and Freedoms, I am delighted that Senator Cowan moved this inquiry; the Charter is the most important document reflecting the civil liberties of Canadians.

Honourable senators, human rights matter. Since 1945, almost 60 countries around the world have adopted new constitutions or revised existing constitutions to include a bill of rights. However, the practical application of civil rights varies from nation to nation. Some constitutions are shams and some are simply ignored. A striking example is the experience in the United States. During the first 150 years of the republic, the Bill of Rights of 1791 was largely ignored by the courts; but part way through the last century, the Bill of Rights became the focal point of judicial activism. Totalitarian regimes and many so-called “banana republics” have eloquent bills of rights, which in practice have no enlightened application whatsoever. Every jurisdiction has its own story.

Canadians are experiencing considerable judicial activism, but the level of access to enjoy the promise of the Charter is mixed. Bills of rights look great on paper. Costs may restrict the

availability of judicial redress to the middle and upper class due to the costs of engaging legal counsel. Without financial means to pursue a human rights case in court, the promise of the Charter remains theoretical for those who are marginalized by income, often related to race or personal status.

The Trudeau government created the Court Challenges Program in 1978 to assist the disadvantaged to support and promote their rights. Due to increased Charter activity, the Mulroney government expanded the program in 1985. As Senator Cowan mentioned, Liberal and Progressive Conservative governments of 20 and 30 years ago did not fear dissenting views from Canadians. Sadly, the program was cancelled in 2006, except for challenges to language rights cases.

For marginalized citizens, the Charter’s promise is elusive, incomplete and beyond reach, as long as we do not have a publicly funded court challenges program. We must revisit this issue in order to make our democracy whole. Only through strategic, often expensive litigation, will the promise of the Charter benefit all citizens. Otherwise, the Charter will slide into an exclusive made-for-the-upper-and-middle-class remedy by ignoring the practical need for universal access.

Honourable senators, marginalization speaks to the ongoing tug-of-war between economic and political considerations and civil rights. Constitutional frameworks seek to accommodate these elements, at least on paper. The achievement of democracy is only fully met when we balance these interests in practice.

Our social history, illustrating how we are supposed to treat each other, is a fascinating story; our constitutional benchmarks are well known. I mention only a few of them that particularly resonate from the last 997 years when the Magna Carta was signed by King John in 1215: the Habeas Corpus Act; the English Bill of Rights; the Quebec Act; the Constitutional Act; the Wartime Election Act, 1917; the Canadian Bill of Rights, 1960; and the Charter of Rights and Freedoms, 1982.

• (1510)

Adding to these milestones are international influences preceding our Charter’s birth, including France’s Declaration of the Rights of Man and of the Citizen, 1789; the United States Bill of Rights of 1791; the International Court of Justice of 1945; the Universal Declaration of Human Rights, 1948, in which a Canadian, John Peters Humphrey, played a major role; the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1953; and the UN Covenant on Economic, Social and Cultural Rights and its Covenant on Civil and Political Rights in 1976.

Our Charter is the product of a long journey on the road to embrace civil rights. It is really a combination of guideposts, inspiration and promotion for civil liberties for the 20th Century in Canada.

Individual freedom and the recognition of human dignity took on new meaning with the passage of each piece of legislation I have just mentioned, culminating in our Charter of 1982. Each milestone proclaiming our liberties paves the way for the next one, regardless of the time that passes between them. They simply build on each other, reflecting the development of the legal

framework required for the ways we treat each other and the respect that we give to each other. One by one, these changes push the old frontiers of human rights into new and unknown territory.

We live in a continuum of ever-expanding human rights. The Charter unfolds as a living tree, extending its reach everywhere, impacting every aspect of our lives. This directly contrasts with previous notions that constitutions embrace frozen concepts.

When ruling on same-sex marriage in 2004, the Supreme Court of Canada depicted our Constitution as that living tree, which, by way of progressive interpretation, accommodates and addresses the realities of an evolving world.

A fascinating phenomenon of legislative action is the challenge and the magic of unintended consequences, honourable senators, flowing from that parliamentary action. Effects on human rights legislation are no exception. New legislation challenges old barriers. Once impenetrable frontiers are discarded, new horizons beckon, speaking to both the frailty and the nobility of human conduct. Consequences of legislation effecting human rights inevitably include resistance to the expansion and acceptance of alternatives. This is foreseen. At work is the living tree of the Constitution.

Charter-related decisions alter relationships in business and family in areas of artistic, academic and political expression, and in attitudes about law enforcement and the development of our sense of self-worth.

These changes take place in an officially bilingual setting, in a broadly expanding immigrant society that is also rooted in a rapidly evolving technologically based country. The dynamic changes demand our attention and our reflection, honourable senators.

By mentioning consequences, I do not speak negatively, although detractors may bemoan and belittle the desire to test new frontiers of civil rights.

The apex of the Charter's influence is our judiciary. Canadians frequently wait for clarity to determine whether or not Parliament is supportive of the Charter-based decision-making of the judiciary. Frequently parliamentarians and judges seem to be partners in human rights progress. Other times, one or the other takes the lead.

The Charter inspires the adjudication of profound human rights issues. At the same time, we see a dramatic increase in the number of women graduating from law school. I do not believe this to be an entirely coincidental situation. In the 1970s, when I was at law school, there were three women in my class of over 100. Today, women outnumber men in virtually all law schools. I think that I can make a reasonable assumption that there is some relationship between the Charter-based cases and the effect of the Charter on the practice of law. This is a consequence of evolving ideas, of the nature and intensity of freedom, attitudes about collective and autonomous action, and the discipline and responsibility we expect of each other in a democratic society.

Since 2008, almost 20 per cent of the Supreme Court of Canada appeals have been Charter cases, many of which speak directly to the ways we treat one another. These decisions have daily

application in our lives. I could go over a litany of representative cases, honourable senators, but time does not permit. However, many have changed the way we view society.

In 1982, the Charter's adoption converged with rapid change in Canada. One hundred years ago, knowledge doubled every ten years. Knowledge now doubles in months, not years. This rapid increase brings dramatic change in technology, medicine and resource management. The rapid doubling of knowledge, combined with Charter-related jurisprudence, produces dramatic results. Effects on the legal community and Canadians are profound. Unintended consequences abound.

The legal community and its clients are becoming more and more impatient and frustrated by the diminishing pace of judicial processes — another unintended consequence. We are faced with new ways of approaching the limits of privacy and the multifaceted issues of abuses at school, at work, at home and in medical care facilities, to name but a few. The list is really endless. This is the new legal climate. It is the price we pay for enhanced and expanding civil liberties for Canadians, but doing the right thing should never be regarded as a burden on society.

The Charter is pivotal to the integrating and expanding of the very definition of our democracy. Discovering new horizons of constitutionally based civil liberties authored by the Charter is as wide as it is deep. The dimension of change is considerable and beyond preconceived ideas of human rights parameters.

We have heard many eloquent and impassioned speeches, honourable senators, on this inquiry. The Charter's significance for language and minority rights was reviewed by Senator Tardif. That seems to be an area of rights that is a kind of moving target here in Canada, which it should not be. We thought it was already settled, but it keeps getting challenged. The Charter anchors these rights. This is as it should be.

Senator Losier-Cool made specific reference to minority rights in our home province of New Brunswick. The Charter has provided legal strength to the linguistic and cultural rights of all Acadians. We must acknowledge here, honourable senators, the leadership role that Premier Richard Hatfield played at the time the charter was adopted.

Senator Smith spoke about the disabled. It is amazing that accessibility, which is only one of the issues facing those with physical disabilities, is yet to be a total reality. The Charter champions the rights of the disadvantaged.

Senator Cordy talked about expanding Canadian values, about the Charter as the inspirational document for new democracy on a planet plagued with foggy civil rights.

Senator Poy praised the new levels of understanding that the Charter brings to our unique multiculturalism that is so fundamental to our evolving identity as a nation.

**The Hon. the Speaker *pro tempore*:** Honourable Senator Day, I regret to inform you that the allotted time has expired. Are you prepared to ask the House for more time?



**Senator Day:** Could I have a few more minutes, honourable senators, to finish?

**Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** Agreed, five more minutes.

**Senator Day:** Thank you, honourable senators.

I was just reviewing Senator Poy's praising of the new levels of understanding the Charter brings to the unique multiculturalism that is so fundamental to our evolving identity as a nation.

• (1520)

Senator Hubley lauded the new frontier of women's rights in the world of sports, based on the Charter's equality clause, section 15, and the positive effect for women on the number of gender-discrimination challenges.

Senator Munson addressed many aspects of freedom of expression. No doubt the depths and limits of this issue will be one of the cutting edges of Charter-related judicial decisions for decades to come. Senator Charette-Poulin highlighted the Charter as the means for the Supreme Court to serve as the guardian of our rights.

Prime Minister Trudeau was the Charter's champion and architect, supported by three of the most resilient public policy quarterbacks in our modern history, Roy Romanow, Roy McMurtry and Jean Chrétien. What a fine team. Some might find fault with some of Mr. Trudeau's policies, but when it comes to the Charter, human rights advocates around the planet applaud his leadership. Together, Prime Minister Trudeau and his provincial premiers ushered in a new era of rights and freedoms, a beacon of civil liberty in the often tarnished world of human rights.

In launching this inquiry, Senator Cowan characterized the Charter as "truly transformative in our nation's history." He reminded us that the Charter has "become one of the most important symbols of Canadian identity." The Charter unifies our citizenship and codes and interprets and expands our shared rights. It inspires basic equality in our democracy. It promotes, and at times forces, legislative action to bring practical application to our legal rights.

Our Charter is the compass for Canadians and the cornerstone of our democracy. It acknowledges rights taken for granted by preceding generations. It embraces new rights. It is our legacy of dignity and humanity, now and for the future.

Thank you, honourable senators.

**The Hon. the Speaker *pro tempore*:** Honourable senators, by agreement, this matter stands adjourned in the name of Honourable Senator Andreychuk.

(On motion of Senator Andreychuk, debate adjourned.)

## VOLUNTEERISM IN CANADA

### INQUIRY—DEBATE CONTINUED

Leave having been given to revert to Other Business, Other, Inquiry No. 9:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mercer calling the attention of the Senate to Canada's current level of volunteerism, the impact it has on society, and the future of volunteerism in Canada.

**Hon. Terry M. Mercer:** Honourable senators, it is a pleasure to rise today to speak on my inquiry about an issue that is most important to me, volunteerism.

As honourable senators will know, I have been a professional fundraiser for various charitable and political organizations over the years. I have come to have a profound understanding of exactly the power a single person has to change the world. Raising money for children in poverty, running for breast cancer research, preparing meals for the homeless or simply answering the phone are all things Canadians do every single day to help their communities, their families, their friends and strangers they will never meet. Canadians do it well.

According to a study released by Statistics Canada last month, more than 13.3 million people, or 47 per cent of Canadians aged 15 and over, did some sort of volunteer work in 2010.

They gave over 2.07 billion hours of their time, which is equivalent to almost 1.1 million full-time jobs. That is just incredible, honourable senators. While you have heard me give these statistics before for previous years, the numbers have grown.

According to the report, the 13.3 million people who volunteered is an increase of 6.4 per cent over 2007 and 12.5 per cent over 2004. This is fantastic, and we applaud those Canadians for giving of themselves. However, while the number of volunteers has continued to grow, the number of hours dedicated to volunteer work has remained the same. After rising about 4 per cent between 2004 and 2007, the total number of volunteer hours logged in 2010 remained essentially unchanged from 2007, at just under 2.07 billion.

What is interesting is that a small number of these volunteers, 10 per cent, have given over half of all the hours volunteered from amongst this group. They dedicated a minimum of 390 hours to their volunteering activities during the year, which is equivalent to almost 10 weeks in a full-time job. Just imagine, 10 weeks of volunteer time. The report goes on to say that 15 per cent of volunteers logged between 161 and 309 hours, corresponding to between 4 and 10 weeks of unpaid work. It is fabulous. They contributed 24 per cent of the total hours devoted to volunteer work in 2010.

In terms of donations, nearly 24 million people, or 84 per cent of the population aged 15 and over, made a financial contribution to a charitable or non-profit organization, totalling \$10.6 billion. However, according to the report, both the percentage of the population donating and the total amount of donations were relatively unchanged from 2007.

What does it all mean? Canadians are great at volunteering time and donating money, but is there something else going on here? Why are a smaller percentage of those who volunteer giving more of their time? Why has the number of people donating not gone up?

Last month, we celebrated National Volunteer Week, a week where we paid tribute to millions of Canadian volunteers who donate their time, energy and enthusiasm to help Canada become a better place. Organizations such as Volunteer Canada play an integral role in recognizing the value of volunteers but also in figuring out how to increase the number of volunteers and the number of donors and how to create the right environment to encourage more people to volunteer.

His Excellency, the Right Honourable David Johnston, Governor General of Canada, is a great supporter of volunteerism in Canada. During National Volunteer Week, His Excellency spoke at the Round Table on Professional Practices in Volunteerism, where he said:

I do not need to tell you how important volunteers are. You see it, feel it, experience up close every day of the year just what volunteers are doing to make Canada a smart, caring nation.

I use the words "smart and caring" deliberately. On the day of my installation as Governor General, a year and a half ago, I made clear that I consider my time in office a call to service; and that I intend to answer that call in one clear way. I will serve as a bridge to bring Canadians of all backgrounds and ages together to create a country that supports families and children, reinforces learning and innovation, and encourages philanthropy and volunteerism.

His Excellency also is a proud supporter of Canada's youth and has encouraged more young people in Canada to give back to their communities and to their country through volunteering.

I applaud His Excellency for these initiatives, and I encourage all of you to do the same.

All honourable senators have volunteered for various charities and organizations over the years, let alone for their respective political parties. I have many times before, when speaking to my bill on National Philanthropy Day, mentioned the various good works that many honourable senators have done. I am proud to say that this bill is currently before the House of Commons and, indeed, is up for debate this evening. We hope to have it sent to committee. Finally, perhaps we will actually get it out of there and get it done once and for all. I thank all honourable senators for their support in that initiative. I know that passing the bill will be one more way that we can recognize the value of volunteerism and encourage more people to volunteer in Canada and, indeed, around the world.

Volunteers are the lifeblood of many organizations. Without them, those organizations would not be able to function. There is a great quote from Margaret Mead that goes like this:

Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.

• (1530)

I think that sums up just how important volunteers are to our society.

When I first started in the charitable sector in 1978, I had been a long-time volunteer both on solo projects and working with a team. I came to understand that one needs to know what motivates someone to volunteer and that the motivation to volunteer is so different for everyone.

That is what makes it so fascinating, honourable senators. Many volunteers fall into general categories like "making a contribution to community" or "using their own skills and experience to do some good." However, the reasons are usually more personal, like supporting a sick member of the family or a friend in the community. It is some kind of a personal link.

One of the most rewarding things about being a fundraiser for more than 30 years is the hundreds of volunteers whom I have met. All of them have enriched my life and made a big difference to the organizations for which I worked. Many have become very close friends.

It is always important to ensure that volunteers are thanked properly and to recognize their contributions. One method I have used throughout my career is to ensure that volunteering is, at the very least, a fun and enjoyable process on a daily basis.

It is always important to say "thank you." I have a motto in thanking donors and volunteers: I thank them six times and, on the sixth time, I thank them just as I ask them to help me again, either with a donation or with more time. It is a rule that has always worked for me. It is not hard to keep volunteers motivated to work hard for a cause, all by just saying "thank you" and showing that one cares.

Indeed, the Special Senate Committee on Aging and the Standing Senate Committee on Agriculture and Forestry, in its rural poverty study, discovered, when we travelled across the country, just how important volunteerism has been across the board, particularly in rural Canada. Rural Canada lives by volunteers. The small village I live in is run by the people who support the volunteer fire department, who volunteer at the Legion and with the Sea Cadet Corps in our community, the Boy Scouts, the Girl Guides, and so on. If it were not for those volunteers, none of those activities would happen in our small community.

The volunteer sector is a hands-on business. Every volunteer is unique and they all need something different to keep them interested and coming back to help make this world a better place.

In conclusion, honourable senators, we would all do well to encourage more volunteering in Canada. I have raised this issue here today in the Senate because I believe our country becomes a better place when more people give of themselves and help their neighbours, their friends and strangers they will never meet.

While we have a good system in place now, there is always more we can do.



During both of our aging and rural poverty studies, we found that the increased cost of gasoline has made it difficult for people to volunteer. The increase in the cost of public transit in urban centres has made it more difficult for people to volunteer and to get back and forth. The increased price of parking is also an issue, if they happen to have a car.

I thank the Governor General for his support, and all honourable senators, as well. I encourage all honourable senators to speak on this inquiry and to share their stories about how volunteering has affected their lives and how volunteers have impacted their communities.

I am afraid I cannot quote Johnny Cash, as Senator Mahovlich did, but I have a quote from one of my favourite singers, Harry Chapin, who said:

Our lives are to be used and thus to be lived as fully as possible. And truly it seems that we are never so alive as when we concern ourselves with other people.

I thank honourable senators and I encourage them to speak on this inquiry.

(On motion of Senator Cowan, debate adjourned.)

[Translation]

## EDUCATION IN MINORITY LANGUAGES

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Losier-Cool, calling the attention of the Senate to the evolution of education in the language of the minority.

**Hon. Gerald J. Comeau:** Honourable senators, this inquiry is at its fourteenth day. I intend to continue my research so that I can eventually give an excellent speech, which I hope I will be able to do before Senator Losier-Cool retires from the Senate. I therefore move the adjournment of the debate for the remainder of my time.

(On motion of Senator Comeau, debate adjourned.)

## POVERTY

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Robichaud, P.C., calling the attention of the Senate to the issue of poverty in Canada — an issue that is always current and continues to have devastating effects.

[ Senator Mercer ]

**Hon. Fernand Robichaud:** Honourable senators, the Honourable Senator Callbeck is currently in committee, and she asked me to propose that we reset the clock for this inquiry so that she can speak about it in the near future.

[English]

**The Hon. the Speaker pro tempore:** It has been moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Moore, that this inquiry be adjourned to the next sitting of the Senate in the name of Senator Callbeck, and that it revert to day 1.

[Translation]

**Hon. Claude Carignan:** Honourable senators, I believe that Senator Robichaud has already used the 15 minutes allotted to him.

**Senator Robichaud:** Yes.

**Senator Carignan:** I am not certain he can adjourn the debate.

**Senator Robichaud:** No. I am asking to adjourn the debate in Senator Callbeck's name.

**Senator Carignan:** Yes, but she is not here to yield the floor to you.

**Senator Robichaud:** No, you have misunderstood.

[English]

**Hon. Joseph A. Day:** Honourable senators, Senator Callbeck is involved in Finance Committee hearings that, with the permission of the Senate, are meeting outside of normal time and while the Senate is sitting. Under the circumstances, as one of the members of that committee, I would ask that the matter be adjourned in her name, beginning at day 1.

**The Hon. the Speaker pro tempore:** It has been moved by the Honourable Senator Day, seconded by the Honourable Senator Moore, that further debate in this matter be adjourned in the name of Honourable Senator Callbeck, and at day 1. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(On motion of Senator Day, for Senator Callbeck, debate adjourned.)

## LITERACY

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck, calling the attention of the Senate to the importance of literacy, given that more than ever Canada requires increased knowledge and skills in order to maintain its global competitiveness and to increase its ability to respond to changing labour markets.

**Hon. Elizabeth Hubley:** Honourable senators, Senator Tardif is preparing her notes on this very important subject matter and is not able to be with us at this moment. She has asked me if we might restart the clock and leave it in her name for the remainder of her time.

**The Hon. the Speaker *pro tempore*:** It has been moved by the Honourable Senator Hubley, seconded by the Honourable Senator Munson, that this matter be adjourned in the name of

Honourable Senator Tardif and that it revert to day 1. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(On motion of Senator Hubley, for Senator Tardif, debate adjourned. )

(The Senate adjourned until Thursday, May 17, 2012, at 1:30 p.m.)

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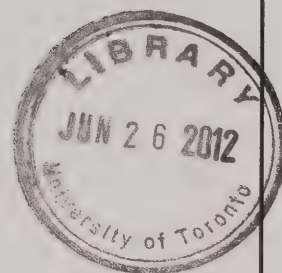
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OFFICIAL REPORT  
(HANSARD)

Thursday, May 17, 2012

The Honourable NOËL A. KINSELLA  
Speaker





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## THE SENATE

Thursday, May 17, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

### ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

May 17, 2012

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 17th day of May, 2012, at 9:30 a.m.

Yours sincerely,

Stephen Wallace  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

Bill Assented to Thursday, May 17, 2012:

An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act (*Bill S-4, Chapter 7, 2012*)

An Act to authorize Industrial Alliance Pacific Insurance and Financial Services Inc. to apply to be continued as a body corporate under the laws of Quebec (*Bill S-1003*)

• (1330)

[English]

## SENATORS' STATEMENTS

### ACCIDENTS CAUSED BY USE OF MOBILE DEVICE HEADPHONES

**Hon. Betty Unger:** Honourable senators, I rise to draw your attention to a disturbing trend among young people today across North America. More and more young pedestrians, wearing

headphones attached to the newest mobile devices, are becoming victims in serious train and motor vehicle accidents. Because of the rising popularity of mobile devices using headphones, the statistics are rising dramatically.

Young people are being seriously hurt or killed because they are simply losing track of their surroundings. They are becoming what some call "inattentionally blind," focusing too much attention on their devices and not enough attention on the world around them.

This past February, two teens were struck by trains in separate, yet shockingly similar, accidents. Both were in high school and both were hit by trains at level crossings. Both were using mobile devices and wearing headphones. Both were distracted and did not see or hear the warning signals from the approaching trains. One boy was from Oshawa, Ontario; the other was from Leduc, Alberta. Tragically, both died only one day apart. In the same month a 27-year-old man was walking along a train track in Banff, Alberta, and was struck by a Canadian Pacific train. He was wearing a toque and headphones and apparently did not hear the train coming; he was pronounced dead at the scene.

Today we live in a society which is increasingly safety conscious, and accidents like these should never happen, but sadly they are happening all the time. A recent U.S. study has revealed that 67 per cent of these fatalities were under the age of 30, 68 per cent were male and almost 9 out of 10 cases occurred in urban areas. An expert in this field, Dr. Lichenstein, an associate professor of pediatrics at the University of Maryland, stated:

Everybody is aware of the risk of cell phones and texting in automobiles, but I see more and more teens distracted with the latest devices and headphones in their ears.

• (1340)

New research conducted by the University of Maryland has found that serious injuries to pedestrians listening to headphones have more than tripled in six years. In many cases, the cars or trains are sounding horns, but the pedestrians cannot hear, leading to fatalities in three quarters of the cases.

As a grandmother of two teenage boys, I am alarmed by these statistics. What makes them so troubling is that, in most cases, the accidents were preventable if mobile devices and headphones had not been used.

Honourable senators, I sincerely believe that we have a responsibility to raise awareness of this disturbing trend and to warn Canadians of the dangers of using handheld devices and headphones where moving vehicles are present. We must remind Canadians, and especially parents of children and young adults, to stop, look and listen, and we must urge them to stay alert so that they can stay alive.

**MR. SHERALI BANDALI JAFFER****CONGRATULATIONS ON RECEIVING UGANDA'S  
NATIONAL INDEPENDENCE MEDAL**

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to honour my father, Sherali Bandali Jaffer, who was recently decorated with Uganda's National Independence Medal, one of the highest awards granted by the government of Uganda. This medal, known as the Hero's Award, was first awarded by Queen Elizabeth II in 1962, at the time of Uganda's independence. It is an honour awarded to those individuals who have contributed significantly to Uganda's struggle to obtain independence, as well as to those who continue to work diligently to protect its independence.

My father has devoted his life to creating a strong, independent Uganda and is extremely proud to have represented his Ugandan brothers and sisters as a city councillor and as a member of parliament under President Obote's government.

In 1972, under the rein of Idi Amin, my father and our entire family were exiled and forced to leave Uganda, our country of birth, with nothing but the clothes on our backs. After seeking refuge in Vancouver and establishing successful businesses in Canada, my father chooses to continue to return to Uganda from time to time, as it is his place of birth.

Although my father contributed to the social, economic and political advancement of Uganda, his main focus has always been on the importance of education. Having personally sponsored over 1,000 Ugandan students and built a number of schools, including the Kibuli Mosque and School, now one of the best educational institutions in Uganda, my father has always firmly believed that investing in the education of young people would transform the lives of the most marginalized boys and girls and in turn help entire communities and countries to prosper. During my travels, I have often crossed paths with individuals whom my father helped to educate, and I am truly humbled by the impact that he had on their lives. The importance my father placed on education also helped me to get to where I am today. Fifty years ago, when girls often did not receive higher education, my father sent me to England to study. It is because of his constant support, advice and guidance that I am able to rise before all of you today, in the Senate of Canada, and represent my province of British Columbia.

My father's love for Uganda comes second only to the love he has for his family. He is a proud father of one son, five daughters, four sons-in-law, one daughter-in-law, 13 grandchildren and 2 great-grandchildren. We all consider ourselves exceptionally fortunate to be able to call such an amazing man our papa. Even in the darkest of times, he has always managed to bring light into our lives. Last night, I was incredibly touched to hear my grandson, Ayaan, say to my dad, "Papa, please return to Vancouver. I need you to sparkle my life. I miss you." I agree with my grandson. My father has indeed put a sparkle not only in our lives but also in the lives of many Ugandans.

**HON. KELVIN KENNETH OGILVIE, C.M.****CONGRATULATIONS ON BIOMEDICAL  
SCIENCE AMBASSADOR'S AWARD**

**Hon. Donald H. Oliver:** Honourable senators, I was born in Wolfville, near the heart of the beautiful Annapolis Valley in Nova Scotia, and I am delighted today to call your attention to an honour received by one of our valley's outstanding statesmen. I am referring, of course, to our colleague, Honourable Senator Kelvin Ogilvie, who was just received another accolade for scientific excellence. This time it was the Biomedical Science Ambassador Award, received from Partners in Research. A number of his Senate colleagues were on hand on May 9, at Partners in Research's 2012 Ottawa Gala Fundraiser, at the Hampton Inn and Conference Centre, when Senator Ogilvie received the award. The theme of this year's gala was "Virtually Educating Our Future."

The citation for Senator Ogilvie read, in part, as follows:

In recognition of his distinguished service as an internationally acclaimed scientist and innovator whose chemistry of the "Gene Machine" helped launch the modern technological revolution.

His invention of Ganciclovir, an anti-herpes drug that continues to save the lives of thousands around the world, has been hailed as a "milestone of Canadian chemistry in the 20th Century." He was also the first to chemically synthesize and transfer RNA molecules.

There were dozens of scientists, educators, students and friends at the gala, the purpose for which was to enhance public understanding of health research and inspire elementary and secondary students in the fields of science, technology, engineering and mathematics. Senator Ogilvie was the keynote speaker. Linda and I also had the pleasure of joining former Prime Minister Joe Clark and his wife, Maureen McTeer. At the same event, she was awarded the Ronald G. Calhoun Science Ambassador Award for her outstanding leadership in health advocacy, particularly for women. In her speech, she outlined work she had done in promoting health and science research.

Partners in Research, established in 1988, is a national charity with the mandate of educating the lay public, in particular young people, about the history, importance, accomplishments and promise of health research in all of its aspects.

Honourable senators, please join me in congratulating our esteemed colleague, Honourable Senator Kelvin Ogilvie, for his outstanding achievements and his receipt of this prestigious award. He continues to represent us so well with his scientific excellence.

**MR. DAVID DORNSIFE**

**Hon. Roméo Antonius Dallaire:** Honourable senators, I rise today to inform you of a great philanthropist that I recently met and to tell you a bit about the source of his funds, which I think is worthy of our attention. Last Friday, I was at the convocation of the University of Southern California, and, at that ceremony, a number of honorary degrees were given. One of them was to a Mr. David Dornsife. Mr. Dornsife is known, as is his wife and partner in philanthropic work, to have extensively supported



World Vision by advancing projects to bring water, well-drilling capabilities, sanitation and hygiene to more than 1 million people in Niger, Ghana, Mali, Ethiopia and Zambia. His wife has also advanced micro-enterprise and literacy projects, in Mauritania, to empower women.

He is the head of a California-based steel fabrication and installation company. In conversing with him, I found out that he had given the largest donation to the University of Southern California, to the tune of \$300 million.

However, the company that is the source of his funding is a steel infrastructure building company. In discussions, he said, "I am very much engaged in the oil sector of Canada." He said that he is providing all of the steel required in Saskatchewan and Alberta to build the infrastructure for the tar sands. He said that he is also heavily involved in building pipelines and pipes for pipelines. "By the way," he said, "I am just opening up a refinery in Illinois to refine Alberta oil." I said, "Why are you doing that from there?" I suggested that surely his company could acquire assets in Canada to build and provide all the material needed to improve our capabilities of being safe and also an ethical provider of oil and energy to his country.

• (1350)

Mr. Dornsife said, "You know, I would, but it's too expensive. It can't be priced." He could not make a profit if he used Canadian steel and Canadian manufacturing capabilities, or even by installing a refinery in Canada to refine Canadian oil. His profits are coming from our oil, but we are not getting any of the infrastructure built, or any assets from that in order to improve our industries. We are just pumping oil down to meet his needs.

[Translation]

#### CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

##### OBSERVATION MISSION OF FRENCH PRESIDENTIAL ELECTION

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, as President of the Canada-France Inter-parliamentary Association, I had the privilege of conducting an election observation mission for the second round of the French presidential election from May 2 to 6, 2012. The Canadian delegation was made up of five parliamentarians representing all the parties in both chambers, and included our honourable colleague, Senator Michel Rivard.

Canada's presence at the French presidential and legislative elections is very important. It is part of a longstanding tradition of diplomacy, cooperation and friendship between the two countries. These visits make it possible to maintain and strengthen this special relationship, which is characterized by a common language, culture and history.

After this experience, I can testify not only to the value Canadian parliamentarians gain from participating in this election observation, but also to the interest generated among the people of France by the presence of Canadian parliamentarians at these historic electoral events.

[ Senator Dallaire ]

The two main political parties in France welcomed the Canadian delegation very enthusiastically. The French presidential campaign and its results attracted and held the attention of many people around the world.

France, a great world power, plays and will continue to play a key role in the international community, particularly in Europe, given that the euro crisis and public deficits are affecting the entire world, including Canada, since we are currently in the process of negotiating a free trade agreement with the European Union.

The Canadian delegation witnessed first-hand a change in regime that will have both national and international consequences. Canada has much to learn from this most recent French presidential election, which had a voter turnout rate of almost 82 per cent and a high level of youth participation and which made effective use of social media.

Finally, I want to take this opportunity to offer my most sincere congratulations to the Honourable Lawrence Cannon on his appointment to the position of Ambassador of Canada to France. As ambassador, he will undoubtedly extend the relationship of trust and friendship that Canada enjoys with France.

## ROUTINE PROCEEDINGS

### THE ESTIMATES, 2012-13

#### SUPPLEMENTARY ESTIMATES (A) TABLED

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, Supplementary Estimates (A) for the fiscal year ending March 31, 2013.

#### JUSTICE

#### JUDICIAL COMPENSATION AND BENEFITS COMMISSION—REPORT TABLED

**Hon. Claude Carignan (Deputy Leader of the Government):** I have the honour to table, in both official languages, the report and recommendations of the Judicial Compensation and Benefits Commission.

[English]

#### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### ELEVENTH REPORT OF COMMITTEE TABLED

**Hon. David Tkachuk:** Honourable senators, I have the honour to table, in both official languages, the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with senators' travel policy.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Tkachuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

### THE ESTIMATES, 2012-13

#### NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (A)

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2013.

### EMPLOYMENT INSURANCE ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-316, An Act to amend the Employment Insurance Act (incarceration).

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

[Translation]

### INTER-PARLIAMENTARY UNION

#### ASSEMBLY AND RELATED MEETINGS, OCTOBER 4-6, 2010—REPORT TABLED

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the 123rd IPU assembly and related meetings, held from October 4-6, 2010, in Geneva, Switzerland.

#### ASSEMBLY AND RELATED MEETINGS, APRIL 15-20, 2011—REPORT TABLED

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the 124th IPU assembly and related meetings, held from April 15-20, 2011, in Panama City, Panama.

#### ASSEMBLY AND RELATED MEETINGS, OCTOBER 16-19, 2011—REPORT TABLED

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Union respecting its participation at the 125th IPU Assembly and related meetings, held October 16 to 19, 2011, in Bern, Switzerland.

#### MEETING OF THE CO-RAPPORTEURS OF THE THIRD IPU STANDING COMMITTEE ON DEMOCRACY AND HUMAN RIGHTS, MAY 18-20, 2011—REPORT TABLED

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Union respecting its participation at the meeting of co-rapporteurs of the third IPU standing committee on democracy and human rights, held May 18 to 20, 2011, in Geneva, Switzerland.

#### PARLIAMENTARY PANEL WITHIN WORLD TRADE ORGANIZATION PUBLIC FORUM 2011 AND THE SESSION OF THE STEERING COMMITTEE OF THE PARLIAMENTARY CONFERENCE ON THE WORLD TRADE ORGANIZATION, SEPTEMBER 20-21, 2011—REPORT TABLED

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Union respecting its participation at the parliamentary panel within the framework of the World Trade Organization (WTO) Public Forum 2011, and the 24th session of the Steering committee of the parliamentary conference on the World Trade Organization, held September 20 and 21, 2011, in Geneva, Switzerland.

• (1400)

[English]

## QUESTION PERIOD

### HEALTH

#### UNITED NATIONS SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD—NATIONAL FOOD STRATEGY

**Hon. Art Eggleton:** Honourable senators, the United Nations Special Rapporteur on the Right to Food concluded yesterday that Canada is ignoring hunger within its own borders. He said:

What I've seen in Canada is a system that presents barriers for the poor to access nutritious diets and that tolerates increased inequalities between rich and poor, and Aboriginal non-Aboriginal peoples . . .



He pointed out that these growing disparities are leaving 800,000 households without the wherewithal to ensure that they can put proper food on the table. Will the government act on his recommendations? Will it develop a national food strategy?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I noted the comments of the United Nations rapporteur yesterday in the media conference. I was struck by his lack of knowledge of Canada. When he met with Health Minister Aglukkaq, she too was surprised by his complete lack of knowledge regarding Canada in general, Aboriginal people, Inuit and how Aboriginal people depend on other sources for their food security.

The rapporteur made his comments about our Aboriginal people without ever setting foot in Canada's Arctic. It is obvious that he is severely limited as to how he would be in a position to adjudicate on any of Canada's policies, most particularly in relation to our Aboriginal people.

**Senator Eggleton:** Honourable senators, the rapporteur travelled in parts of this country and saw hunger. Hunger is hunger wherever you see it. We know there is hunger in this country. The Standing Senate Committee on Social Affairs, Science and Technology did a report that found a staggering one in ten Canadians lives in poverty, one in four of them being children. That is 3.4 million people, many of whom are working but still cannot make enough money to put proper nutritious food on the table. We know that and we adopted that in a report in the Senate.

All of this has a profound impact on the productivity of our workforce and the health of our nation. Poverty expands health care costs, policing burdens and diminishes educational outcomes. In turn, this depresses productivity, economic expansion and social progress, all of which takes place at a huge cost to the taxpayers and a robust potential to our economy, not to mention the food-on-the-table problem.

Will the government commit to working with the provinces to establish a pan-Canadian poverty-reduction framework, as recommended by the Social Affairs Committee in its report?

**Senator LeBreton:** Honourable senators, the government is already doing that by working with provincial and territorial health officials.

Although I do not often commend honourable senators to read any newspaper, I would commend them to read an article by John Ivison in today's *National Post*. He pretty well nailed it in terms of the extent of this gentleman's work. By the United Nations' own measure, Canada ranks sixth best in the world on the Human Development Index. While the rapporteur is travelling the streets of Montreal, Toronto, Ottawa and any other urban centre, 65 per cent of the world's hungry live in only seven countries: India, China, the Democratic Republic of Congo, Bangladesh, Indonesia, Pakistan and Ethiopia — almost all countries where Canada contributes significantly to the World Food Programme.

The Minister of Health pointed out yesterday that there are issues concerning proper nutritional health in this country. We have a huge problem with obesity. Senator Raine and other

senators are advancing these concerns. However, to suggest that Canada, with a better record on all of these fronts, is somehow a problem in the world says more about the United Nations than it says about Canada.

## ENVIRONMENT

### NATIONAL ROUND TABLE ON THE ENVIRONMENT AND THE ECONOMY

**Hon. Elizabeth Hubley:** Honourable senators, my question is for the Leader of the Government in the Senate. The National Round Table on the Environment and the Economy, an arm's-length federal advisory panel, recently learned that its budget has been cut and that it will be shut down. For the past 24 years, the NRTEE has provided independent research and analysis on a range of important environmental and economic issues. Their most recent and now final report, released a day before the budget was tabled, was on the life cycle approach to production and was completed in response to a specific request from Environment Minister Peter Kent. Initially when the government was questioned in the other place about the elimination of the NRTEE, the response from Minister Kent was that the round table was no longer necessary. This was an interesting response, considering that the agency had just completed a report specifically requested by the minister.

Even more interesting was that we learned earlier this week from Minister Baird about the real reason the government has eliminated the NRTEE. According to him, the round table had its funding cut because it was producing reports that the government did not like. Is this true? Is this just another example of the government's preference for ideological rather than evidence-based decision making?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I am aware of the report that NRTEE has tabled at the request of the Ministry of the Environment. We thank them for the report. It was requested. However, that does not change the government's intention to end funding to the National Round Table on the Environment and the Economy.

When the round table was founded in 1988, I happened to be on the other end of it at the time. There were limited sources of public policy advice on the environment, and that is why it was set up. Today, there is absolutely no shortage of organizations providing scientific advice and research, and so there is no longer a need for the government to fund a body such as the round table. It is time to put the funding to better use for taxpayers. That is the position of the government, and that will not change.

**Senator Hubley:** Honourable senators, I thank the leader for her answer. It is interesting that I have heard this answer in response to several questions involving the cutting of valuable programs that have served the country well for many years. It is strange because if something has worked so well for that amount of time, it obviously was a useful program. That should in some way ensure that it would continue, but obviously the government thinks differently.

On a supplementary, the elimination of the NRTEE is just one of several changes the government is making that will impact environmental research and policy directions. More and more we are seeing a move towards closed-door decision making and the muzzling of scientists.

• (1410)

How can the government assure Canadians that it is taking their environmental concerns seriously when it is silencing independent voices, such as those from the National Round Table on the Environment and the Economy?

**Senator LeBreton:** Honourable senators, I have been asked many questions in the Senate about various government programs that we are ending, such as Katimavik. Many programs that were started by previous governments still perform functions in the interests of the government and the Canadian public. However, there are agencies, honourable senators, that have outlived their usefulness. Many of these programs were set up to provide for a need at the time, and they were supposed to be sunsetted. I have complained many times that the sun never sets. The programs go on and on, even though the purpose for which they were set up no longer exists. There will be all kinds of programs like that.

This is called good and prudent management of taxpayers' dollars. We are trying to reduce the deficit. We are trying to provide jobs, grow the economy and ensure long-term prosperity.

It is not the case that scientists are being muzzled. I have answered those questions here before. That is another myth that floats around this town.

As I have said, the National Round Table on the Environment and the Economy was set up in 1988, and I was involved in setting it up. There was a need for it at the time because there were not many organizations providing advice and research on the environment. Now, there is no end to the number of organizations, universities and people in the private sector assisting in advising the government and the private sector on the environment. That underscores the fact that there is no longer any need for the government to keep funding a body like the National Round Table on the Environment and the Economy.

## SCIENCE AND TECHNOLOGY

### ARCTIC RESEARCH

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, the Arctic Institute of North America's Kluane Lake Research Station, which just celebrated its fiftieth anniversary, will likely be forced to close its doors soon due to federal budget cuts. This station, operated mainly by scientists from universities in Alberta and British Columbia, is one of many whose operations are being threatened in the Arctic.

In response to federal budget cuts, the Natural Sciences and Engineering Research Council has ended a funding program that helped this facility and other research facilities across Canada. The Kluane Lake Research Station was renovated just last year

after receiving a \$2.5 million investment from the federal government's Arctic Research Infrastructure Fund, but now scientists working there cannot afford to keep it operational.

Why would the government invest in infrastructure in the Arctic without a plan for keeping these important facilities operational?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I believe that the honourable senator has asked me that question before. The funding for that organization was not solely provided by the government. When the senator asked this question before, I undertook to get a written response. Perhaps I did not do that, but I will take this question as notice.

The organization of which the honourable senator speaks could not access funding from other sources, and that is why they could not continue.

**Senator Tardif:** Honourable senators, that was not the same facility; it was the Polar Environmental Atmospheric Research Laboratory, PEARL. I can understand that it could be confusing as so many facilities are being shut down.

The government has repeatedly said that it is committed to having an important presence in the North. However, due to federal budget cuts and the cost of operating there, many scientists who are now hard-pressed for funding are shifting their research away from the Arctic and are preparing their exit.

David Hik, a University of Alberta scientist and a member of the board of this Arctic Institute said budget cuts:

... will have repercussions on the operations of most Arctic infrastructures operated or funded by universities, or other NSERC eligible institutions.

... there is a clear misalignment between major investments in infrastructure such as new buildings, ships, research stations through the Economic Action Plan and other programs, and large cuts or absence of any sustainable operational funding.

Honourable senators, these stations provide important services, from research on climate change to affirming Canada's sovereignty in the North. Why is the government allowing them to shut down?

**Senator LeBreton:** Honourable senators, it is clear that the government has embarked on a whole host of programs targeted to the North through the infrastructure program and many other initiatives. I thank the honourable senator for clarifying that it was the PEARL project that she had asked about earlier.

The government has undertaken many initiatives in the North. I will take the honourable senator's question as notice. There is a lot of misinformation flying about with regard to what we are doing in the North, the resources we have put into the North, the role of the scientists and to whom they are responsible. Sometimes we partner with the private sector.

If the honourable senator does not mind, I will take her question as notice and provide her with a detailed response.



[Translation]

## INDUSTRY

### RADARSAT SATELLITE AND COMMUNICATION PROJECTS

**Hon. Roméo Antonius Dallaire:** Honourable senators, my question is for the Leader of the Government in the Senate, and follows along the same lines as Senator Tardif's question regarding the Arctic.

The Prime Minister has travelled to the North on several occasions to affirm the essential role of our sovereignty and our presence in the Arctic. Without this presence, it would be difficult to assert our Arctic sovereignty.

The budget has not yet passed, but the departments are already getting ready to implement it. However, there seems to be a lack of continuity or a lack of communication between those who are implementing the budget cuts and the Prime Minister regarding his policies on certain issues, and the Arctic is one such example.

Consider the example of Canadian naval vessels. They were supposed to begin patrolling the Arctic in 2016. However, that project has been postponed by three years. It is going to take three years to complete that project.

It also appears as though the RADARSAT Constellation, a large-scale project involving three satellites to monitor the North, is about to be abolished or at least postponed.

Has the Prime Minister developed a policy whereby he committed to monitor the Arctic, but now that it is time to allocate funding, he has changed his basic philosophy regarding the desire to move forward on the issue of Arctic sovereignty?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, the Prime Minister and the government have been clear about the importance of our North, not only in terms of our sovereignty, but also in terms of the development of the North and ensuring that the people there benefit directly from that development. We have undertaken to build a new icebreaker, for example.

As I said in response to Senator Tardif's question, there is a host of actions the government has taken that specifically relate to the North. I will take the honourable senator's question as notice and add it to the information I want to provide to Senator Tardif.

• (1420)

**Senator Dallaire:** In the continuity of the concern regarding the Arctic — that is to say, having a surveillance capability to observe who is moving around, as well as security needs with regard to the environment and other security matters — we are turning extensively to technology. In fact, we have been turning to MacDonald, Dettwiler and Associates out of Vancouver to be the lead in advancing some of our satellite technology in order to do that surveillance in the North. What is happening is a bit of a problem with regard to the left hand and the right hand.

On the left hand, the government has decided that the technology at MacDonald, Dettwiler and Associates could not be sold to other countries because it has strategic value and interest, and that the company would receive contractual arrangements in order to implement, as an example, the RADARSAT Constellation.

However, the budgets have not come forward. The company has received nothing with regard to being able to implement that project. They are sitting there right now with a promissory note that says, "Yes, maybe we will move forward with that project." They have an instruction that says they cannot sell that equipment, and they have a whole bunch of scientists who are packing up and going south. This smells like the Avro Arrow story. We build an extraordinary capability, the government commits itself, and then it says it is closing the project down. All that capability goes south, and ultimately we end up buying the stuff that our own people in the south are selling back to us.

Can the leader tell us whether or not MacDonald Dettwiler will get a response from Minister Paradis as to that essential project of the future and be able to not only keep the capability here, but also keep those highly regarded scientists and engineers working in Canada for Canadian needs?

**Senator LeBreton:** The honourable senator said "maybe" we will commit to RADARSAT. It is not maybe. Our government remains committed to the RADARSAT Constellation Mission and we are working to ensure that this program is delivered in a cost-effective way. That is what we are doing. That is what the Canadian taxpayer would want us to do.

The speculation about the future of RADARSAT has been mischievous, to say the least. I cannot help but correct the record. The honourable senator was right when he made the comment that the government did make the decision to cancel the Avro Arrow project. This was always blamed on the Diefenbaker government, but history and the record clearly show that the decision was made by the St. Laurent government to scrap the program. Like all things in government — the transition of government — when Mr. Diefenbaker defeated the St. Laurent government, he was left with a program that they had already decided to scrap. It requires repeating many times because it is another one of those myths that lie around.

**Senator Dallaire:** We had better ensure that we are reading an objective history and not a politically based history. The Diefenbaker government had ample opportunity to reverse that trend that may have moved the Avro Arrow program to being stopped, and could have continued that program if it wanted to.

Let me get back to RADARSAT. We know that 100 employees left last year and another 50 are leaving this year, with the possibility of 100 going south. That is a fact. Looking at the cost-effectiveness of the project is one thing, but by the by, we will have to end up buying it from the Americans because these characters are all going to the United States and our capability will be eliminated.

In line with that, National Defence has a space program. The Royal Military College has a degree in space science, which is variant of a degree in physics. Their satellite program is called

Sapphire. It is supposed to be implemented to provide surveillance and communications support for our operational capabilities. Can the leader tell me whether that project has also been under the gun and moved to the right by three years under this budgetary process?

**Senator LeBreton:** Honourable senators, Steve MacLean, head of the Canadian Space Agency, is doing an outstanding job.

The honourable senator asked specific questions about various parts of our programs with regard to satellites and communications. As I indicated a few moments ago, there is obviously a lot of detail. I would not believe everything one reads in the newspaper about scientists coming and going. We have read these stories before. However, I will provide the honourable senator with a written response.

**Senator Dallaire:** I raised this next point a couple of years ago: I wonder whether or not there is a requirement for us to have a time limit on responses and whether that is a point of order or a procedure that we want to entertain.

[Translation]

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Tkachuk, for the second reading of Bill S-9, An Act to amend the Criminal Code.

**Hon. Roméo Antonius Dallaire:** Honourable senators, yes indeed, you are going to have to put up with me for another 45 minutes, but I will try to do as my friends in the U.S. Marines taught me.

[English]

I will try to power talk my way through this and curtail my time.

Honourable senators, Bill S-9 concerns nuclear terrorism. In the 1970s when I was serving, Canada still had the capability of delivering nuclear weapons. By that time we had gotten rid of the missiles we had and we were based on gun systems. In my duties within NATO, I had the capability of ultimately being able to deliver nuclear weapons.

Some of the tactical nuclear weapons that I speak of are the size of a grapefruit and can take out half of Toronto. There are still close to 27,000 of those weapons out there today, and those are

the small ones, the tactical ones. Therefore, there is an urgency and a concern that in fact the international community does its best to ensure that nuclear capabilities do not fall into the wrong hands.

Bill S-9 on nuclear terrorism is a bill that I certainly support. Let me provide some of the surrounding material to the argument in support of this bill.

The bill is entitled An Act to amend the Criminal Code to combat nuclear terrorism. My objective today is to outline a number of elements within the legislation itself, as well as a series of concerns that I have with Canada's anti-nuclear efforts. I want to describe how Bill S-9 fits into those efforts and finally discuss questions that need further study in committee.

Nuclear weapons are the most extreme massive violation of human rights imaginable. They are a violation of our human right to security, to peace in the world. These terrible weapons of mass destruction not only threaten us as a species, but they threaten our humanity as well.

• (1430)

Why worry about an oil spill or a plastic bag when we actually have the capability of wiping out the planet completely?

Honourable senators, there is simply no other issue of equal or greater importance, significance, danger or threat than that of a nuclear weapon to Canadians and to global security.

Honourable senators, nuclear weapons are absolutely and totally useless weapons.

[Translation]

I would like to express my support for what Senator Andreychuk said when she proposed these amendments on March 27, 2012, on behalf of the Honourable Rob Nicholson. These amendments will update Canada's penalties for activities related to nuclear terrorism and will enable Canada to implement in full two major international agreements on the fight against nuclear terrorism.

This is in accordance with Amendment to the CPPNM regarding criminalization and constitutes a national law that would enable Canada to ratify the ICSANT. This is an important symbolic measure that brings Canada into step with its international partners.

Canada is committed to participating in international efforts to fight nuclear terrorism. We are one of the states parties to the 1980 Convention on the Physical Protection of Nuclear Material, the CPPNM, which establishes measures related to the prevention, detection and punishment of offences related to nuclear material.

Canada has also signed the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, ICSANT, which covers a broad range of criminal acts and stipulates how those who commit nuclear terrorism offences are to be treated.



Canada's Nuclear Safety and Control Act and Nuclear Security Regulations fulfill the physical protection requirements set out in the 2005 Amendment to the CPPNM, but criminalization measures are not yet in place.

Bill S-9 would amend the Criminal Code to create four new offences.

Possessing or trafficking in nuclear or radioactive material or devices would be illegal. Anyone found guilty of this serious offence would be liable to imprisonment for life.

Anyone found guilty of using or altering nuclear or radioactive material or devices or committing an act against a nuclear facility would be guilty of an indictable offence and would be liable to imprisonment for life.

Anyone committing an indictable offence with the intent to obtain nuclear or radioactive material or a device or to obtain access to or control of a nuclear facility would be guilty of an indictable offence and liable to imprisonment for life.

Lastly, anyone threatening to commit any of these offences would be guilty of threatening and liable to imprisonment for up to 14 years.

These penalties are in line with the international agreements we signed.

[English]

This bill can be seen as a tool to close legal loopholes when it comes to the prosecution of those carrying out activities related to nuclear terrorism. Through the extraterritorial jurisdiction approach, it extends the reach of Canadian law where prosecution may have previously occurred in a legal vacuum. It also provides for extradition in the case of nuclear terrorism without the need for pre-existing bilateral agreements.

If we are to leave this planet a better place for those who succeed us, then we must take nuclear weapons far more seriously into the forefront, and we must struggle with every effort that we can muster to keep our planet free of their use.

Bill S-9 is the result of one such effort, but it is certainly not enough. Though perhaps Canadians feel unthreatened by the prospect of nuclear terrorism, I must stress that theft of weapons-grade material and components is not just possible, it is happening. Some of the world's estimated 2,100 tonnes of plutonium and highly enriched uranium are kept in poorly guarded buildings, and there have been 18 known attempted thefts since 1993. These are the materials essential for creating the nuclear weapons.

Matthew Bunn, an eminent scholar at Harvard University and a former White House adviser in the Office of Science and Technology Policy says that the al Qaeda terrorist network has made repeated attempts to buy stolen nuclear material in order to make a nuclear bomb. They have tried to recruit nuclear weapons scientists, including two extremist Pakistani nuclear weapons scientists, who met with Osama bin Laden shortly before the 9/11 attacks to discuss nuclear weapons. Nuclear terrorism, Bunn

says, remains a real and urgent threat. The way to respond is through international cooperation, not confrontation and certainly not war.

Responding to these new threats, the UN Security Council, in 2004, adopted Resolution 1540, binding all states to enforce measures aimed at preventing non-state actors from acquiring nuclear, biological or chemical weapons and their means of delivery. A nuclear weapon on the back of a truck may not necessarily be the most effective delivery means, but in downtown Toronto, it could still achieve its aim.

However, the resolution requires complex implementation mechanisms that reduce confidence in its effectiveness. When President Obama convened the Security Council in 2009 to tighten up the non-proliferation regime, Resolution 1887 on non-proliferation was unanimously adopted. While that resolution called for the enforcement of strict controls on nuclear material to prevent it from falling into dangerous hands, it also underlined the right of states to pursue peaceful nuclear energy under the IAEA supervision, so nuclear power is certainly acceptable and within the context of the use of nuclear material.

Unfortunately, all it could do was urge states to curb the export of nuclear-related material to countries that had terminated their compliance with agency safeguard agreements. Since fewer than half of the world's governments have signed on to the tougher IAEA inspection program known as the additional protocol, the checkpoints on nuclear materials are full of holes.

This perilous state of affairs prompted the Obama administration to convene the Washington Nuclear Security Summit in April 2010, a conference that would be succeeded by the Seoul conference in 2012. There, 47 heads of government, including of course Canada's and including those of India, Pakistan and Israel, where the fear of terrorism is constant, pledged to prevent the theft of fissile material by securing stockpiles within four years. That was the plan.

With this commitment, the chances are better that at least states possessing civilian nuclear sites, many of which lack even standard military protections like barbed wire and checkpoints, will invest in proper security measures, such as fuel vaults, motion detectors and central alarms.

• (1440)

Most importantly, the leaders left the summit with a new resolve to beef up the 30-year-old Convention on the Physical Protection of Nuclear Material and to tighten security measures around the world. Canada is attempting to achieve that in this bill.

[Translation]

A "new nuclear order" is needed to confirm the symbiotic relationship between the non-proliferation of nuclear weapons and nuclear disarmament. Ban Ki-moon, the Secretary General of the United Nations, and President Obama have tried to lead the way to a nuclear-free world. However, many important countries, including Canada, hesitate to follow their lead and appear to be afraid to embrace the bold measures needed to truly rid the world of nuclear weapons.

In the hope that modest measures will be enough to stave off nuclear disaster, these countries are resisting the historic movement that would put an end, once and for all, to the proliferation of weapons that poses a problem for all peoples.

[English]

I will bring to honourable senators' attention a bit of history. In 1957, in the little village of Pugwash, Nova Scotia, a gentleman called Cyrus Eaton, who made his millions in the United States but came back to use them in Canada, put together a group of 20 nuclear physicists, including the Russians, at the height of the Cold War. Together they commenced the process of ultimately creating an atmosphere for nuclear disarmament and non-proliferation.

The Pugwash movement, of which I have been the patron, continues still today. It meets internationally, and Pugwash, Nova Scotia, remains the heart of that overall anti-nuclear movement.

[Translation]

Quite an impressive achievement for a fisherman!

The international community has voiced its concerns about the catastrophic humanitarian consequences of the use of nuclear weapons and again stated that all countries must obey international humanitarian law.

In fact, the 2010 Review Conference, tasked with reviewing the Non-proliferation of Nuclear Weapons Treaty, added to the world's agenda consideration of negotiations toward a nuclear weapons treaty to strengthen the instruments. For the first time, the concept of an international ban on all nuclear weapons was validated. That was a first step.

However, progress is hindered by modernization programs of countries with nuclear weapons, countries that have retained their military doctrine of nuclear deterrence as a means of exercising their authority. Moving forward with some reductions would be beneficial; eliminating all weapons would not, at least not at this time.

[English]

It is interesting that since the end of the Cold War, when we sought the peace dividend and reduced our conventional military capabilities and the start of a disarmament program was commenced, up to this day, the developed countries that possessed nuclear weapons have invested over \$800 billion in modernizing them. That is at a time when we do not need them anymore, certainly not under the context of the history of why they were created in the first place. We have not put \$800 billion into environmental protections, but we have put \$800 billion into how to wipe out the planet and humanity along with it.

[Translation]

The nuclear powers say that, as long as nuclear weapons exist, they will have to keep their arsenals. According to the convoluted logic that led to the historic nuclear arms race during the Cold War, as we have seen, the degree of security these weapons bring always depends on their use.

[English]

The idea of zero nuclear weapons is considered but a dream. The powerful defenders of nuclear weapons act as if not possessing nuclear weapons would be an unbearable deprivation. This continued obstinacy has created a new crisis for humanity because failure to seize this moment to start comprehensive negotiations will lead to the further spread and possible use of nuclear weapon.

More people have them; more idiots are there to use them.

Both the opportunity and the crisis point to an inescapable fact of life in the 21st century: A two-class world in which the powerful aggrandize unto themselves nuclear weapons while proscribing their acquisition by other states is not sustainable. This is certainly not leadership by example. "I need mine and they have to be better and more improved. You do not do not need yours and you have no reason to acquire them." It is not particularly logical.

We face the danger of the proliferation nuclear weapons because the powerful nuclear states have not used their authority to build a world law outlawing all nuclear weapons. They can do that. They own them, they lead in it and they could actually stop it. Whether their industries are prepared to support their politicians certainly still remains up in the air today.

Yet there is hope that a way can be found to move forward together. The 2010 consensus NPT final document stated:

The Conference calls on all nuclear-weapon States to undertake concrete disarmament efforts and affirms that all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons.

It is a major step in the efforts to rid the world of nuclear weapons. All states — the strong and weak, the rich and poor — stand on common ground. The global need to reduce nuclear dangers by making it unlawful for anyone to use, deploy, produce or proliferate nuclear weapons is there for us to make and subsequently apply.

In short, the problem of nuclear terrorism cannot be seen in isolation. It is but one facet, albeit important and not insignificant, of the overall problem of nuclear weapons. This fact was recognized by 550 distinguished members of the Order of Canada who have called on the Government of Canada to support the UN Secretary-General's five-point plan for nuclear disarmament, which includes starting negotiations for a nuclear weapons convention.

This action led to a motion unanimously adopted by the Senate on June 2, 2010, and also adopted unanimously in the House of Commons on December 7, 2010. It called for the government to initiate a major diplomatic initiative on nuclear disarmament. So far, the government has not acted on this unprecedented motion. This is the moment for Canada to show that it cares about nuclear disarmament. Its parliamentarians have unanimously requested it to do so.



[Translation]

The Convention on the Physical Protection of Nuclear Material and the International Convention for the Suppression of Acts of Nuclear Terrorism are just two of Canada's many commitments to support efforts against nuclear terrorism, and we commend our country for that. Other government resolutions and international agreements in which Canada participates, such as the Global Initiative to Combat Nuclear Terrorism and the United Nations Security Council Resolution 1540, emphasize the importance of member states helping each other keep their commitments.

This involves offering support in the way of information sharing, technical cooperation, such as mutual support during investigations and extradition proceedings, and other forms of direct intervention.

• (1450)

There is very little information about how Canada contributes. Further to the Nuclear Security Summit, which was held in Seoul in 2012, Canada announced that it was going to cooperate with the United States to support Mexico by replacing its highly enriched uranium research reactors with ones that run on low-enriched uranium. Unfortunately, few other specific projects have been announced and no resources have been allocated.

The obligations resulting from these agreements and Canada's lack of progress show the potential and importance of Bill S-9. It also reminds us of how far we still have to go. We have taken a fundamental step; now, we just have to continue moving forward.

The measures taken to incorporate these agreements into Canada's legislative framework are very important; however, they represent only one aspect of Canada's overall commitment in the fight for nuclear non-proliferation and disarmament.

There are still important questions remaining with regard to Canada's commitments overseas. How will the \$367 million, which was announced after the summit in Seoul and set aside by Canada under the Global Partnership Program, be spent? To date, this budget has been used to fund programs designed to secure nuclear materials, technology and knowledge in countries of the former Soviet Union. What are the future budget priorities? What projects funded in other areas of the world have to do not only with nuclear materials but also with nuclear weapons? These questions need to be answered. And we can help answer them, since our country is part of the solution.

[English]

We know, for instance, that support for starting work on the nuclear weapons convention, which would be a legal ban of all nuclear weapons, is widespread. More than three quarters of the countries of the world have voted for a United Nations resolution calling for the commencement of negotiations leading to the conclusion of a nuclear weapons convention. Support comes from across the geopolitical spectrum, including Asia, Africa, the Middle East, Latin America and parts of Europe, and includes support from some countries possessing nuclear weapons, which include China, India, Pakistan and, yes, even North Korea.

In fact, the international campaign to abolish nuclear weapons has noted that nations that support a ban make up 81 per cent of the world's population, and who do honourable senators think

are the targets of these nuclear weapons? There are no more huge armies deployed in the field. The targets are civilian targets. The targets are our cities, our populations and our resources.

More support is coming from such important groups as the InterAction Council, comprised of 20 former heads of state from key countries, including the United States, Canada, Norway, Germany, Japan and Mexico, and a December 2011 summit of leaders of Latin America and Caribbean states.

The ball is moving slowly. Despite the growing support for a treaty, many major states are still unwilling to enter such negotiations. To overcome this obstacle, a practical action would be a core group of countries starting an informal process to start building the framework for a nuclear weapons-free world. This could include preparatory work on some of the elements of a framework, such as verification, national prohibition, exploring what we would be required to ensure, compliance with a global ban, advancing alternative security frameworks to nuclear deterrence, and further refining the model nuclear weapons convention to make it into a realistic working draft for actual negotiations. Such work would pave the way for eventual formal negotiations. It would be a continuum of the great initiative by Cyrus Eaton in Pugwash, for which the Nobel Peace Prize was given in 1995 and sits there in Pugwash.

This could be complemented by actions by like-minded states to build political momentum for such negotiations through advocacy at the highest level, that is, head of state, or through establishing a full-scale international diplomatic conference, as called for by numerous commissions in the past.

Honourable senators, we have stood up time and again to reaffirm Canada's commitment to a nuclear-free world, yet we feel the tension of being a part of NATO, an organization predicated on the possession of these weapons and their potential use. We are really quite *bicéphale* about it. We establish rules to protect our uranium and nuclear device components, but we do not seriously ask how we can create a framework for cooperating on ridding ourselves of them. We fight tooth and nail to hold on to what we have and punish those who try to take it away from us. However, we do not ask ourselves how we can one day reach a world where those same people do not need, through their rage, to take anything from us in that fashion. That is a world we ought to make. That is a world we ought to leave behind. That is a world in which Canada could be a leader.

Bill S-9 is a small step in Canada's efforts to ridding the world of a nuclear threat. By filling the legal vacuum in which prosecution of these crimes might have taken place, we not only take an important symbolic step forward in the anti-nuclear commitments, but we empower our country with essential new jurisdictional and punitive powers.

I propose, however, that we discuss how this legislation fits into the broader stance Canada has taken and needs to take against nuclear weapons.

Our international commitments, some universally adopted and many reaffirmed by this Senate, hold us to a higher standard. It was only two years ago that this Senate unanimously passed a motion in support of a statement on nuclear disarmament by a group of recipients of the Order of Canada. The time has come

once more to study and reflect on what we must do to see that commitment through. The time is now to explore how we can best continue to implement Security Council Resolution 1540, which holds us to assisting other member states with their disarmament and non-proliferation commitments.

We must continue to explore how we can continue to promote peaceful uses of nuclear energy through our partners at the Nuclear Energy Agency, the OECD and the IAEA. We owe it to ourselves to take these challenges to the Special Senate Committee on Anti-terrorism and continue to ask questions and continue to act.

As nuclear weapons remain one of the only true existential threats to our species, we must always be vigilant and we must always be proactive.

I have stood before you, honourable senators, not only to speak of our successes but also of our failures and our challenges. With each step, we must reflect on the questions, holes and obstacles that still remain in ridding us of what is essentially and fundamentally an absolutely useless weapons system and a threat to our human right to security on this globe. Thank you very much.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to and bill read second time.)

#### REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Andreychuk, bill referred to the Special Senate Committee on Anti-terrorism.)

• (1500)

#### STUDY ON USER FEE PROPOSAL

##### PASSPORT CANADA—FOURTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Foreign Affairs and International Trade (*Passport Canada's Fee-for-Service Proposal to Parliament, pursuant to the User Fees Act, without amendment*), presented in the Senate on May 10, 2012.

**Hon. A. Raynell Andreychuk** moved the adoption of the report.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

#### HUMAN RIGHTS

##### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE— SIXTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Munson, for the adoption of the sixth report of the Standing Senate Committee on Human Rights (budget—study on the rights of off-reserve Aboriginal Peoples—power to hire staff and to travel), presented in the Senate on May 3, 2012.

**Hon. Mobina S. B. Jaffer:** Honourable senators, may I please ask Senator Comeau when he plans on speaking to this?

**Hon. Gerald J. Comeau:** Actually, honourable senators, I see my deputy leader nodding, so I think we should go ahead with it right now and put the question.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

#### RECREATIONAL ATLANTIC SALMON FISHING

##### ECONOMIC BENEFITS—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Meighen, calling the attention of the Senate to the economic benefits of recreational Atlantic salmon fishing in Canada.

**Hon. Wilfred P. Moore:** Honourable senators, I am pleased to join in the debate of the inquiry commenced by the Honourable Michael A. Meighen regarding the economic benefits of recreational Atlantic salmon fishing in Canada.



Salmon fishing in Nova Scotia has a long and rich history. The rivers of the province where salmon spawn include, on the mainland, the Mersey, LaHave, Gold, Ecum Secum, the St. Mary's, the East and West St. Mary's and the River Philip. In Cape Breton, there is the Margaree, Cheticamp, North Aspy, Baddeck, Middle River, Indian Brook and the Barrachois.

All of these rivers have an interesting story to tell when it comes to fishing wild Atlantic salmon, and the St. Mary's is no different. Running through Guysborough, Antigonish and Pictou Counties, the St. Mary's is one of Nova Scotia's longest rivers. First named Riviere Isle Verte by Samuel de Champlain, the river received the name "St. Mary's" from a nearby French fort, Fort Sainte Marie, around 1669.

Somewhere around the early 1900s, people began to travel to the river to fish salmon. One of the most notable was Babe Ruth. Legend has it that he may not have hit so many home runs if a guide had not pulled him from the river after he fell in a deep pool.

In 2009, the recreational salmon fishery was closed on the west branch of the St. Mary's. Indeed, the Gardner Pinfold report, mentioned earlier by colleagues, states that the salmon fishery along the eastern coast of Nova Scotia, as well as the Bay of Fundy, is endangered and that the salmon fishery along the Gulf of St. Lawrence is designated as a special concern.

The loss of the wild Atlantic salmon fishery in Nova Scotia would mean the loss of \$10 million in salmon-related spending activity and the jobs and businesses that depend on that fishery, not to mention the loss of a species that has inhabited the waters of Nova Scotia for as long as inhabitants of the area can remember.

The Margaree River in Cape Breton generates \$2.9 million in spending, \$2.5 million in GDP, 70 full-time jobs and \$2.1 million in income. This is not a mere drop in the bucket for that community.

Unfortunately, salmon farming has emerged as a threat to the recovery of wild Atlantic salmon stocks. The Gardner Pinfold report states:

Over 90 per cent of all commercial aquaculture . . . in Canada involves raising domesticated Atlantic salmon . . . at the mouths of rivers where wild salmon pass by. . . . The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) have identified salmon farming as a key threat. Farmed salmon can spread diseases and parasites to wild salmon, while escaped domesticated salmon compete for food and habitat . . . and interbreed with wild salmon thereby weakening the gene pool.

This past week in Halifax's newspaper, *The Chronicle Herald*, an opinion piece by Ralph Surette appeared highlighting the dangers of salmon farming. He noted that many other problems that had been experienced in areas where salmon farming has taken place are now coming to Nova Scotia. Cooke Aquaculture is on trial for allegedly dumping illegal substances from its farming operation into the Bay of Fundy which killed lobsters in the area.

Surette notes that Nova Scotians "don't want an end to salmon farming. They want it sustainable. . . ." They want to see an end "to 'open-pen' farming in favour of shore-based pens."

Let us hope that a middle ground can be found whereby the two, wild and domesticated salmon, might be produced in the same areas without any detriment.

That brings me to those working to preserve, promote and protect wild Atlantic salmon. The lead agency in this work is the Atlantic Salmon Federation, or ASF, an assembly of keen, well-motivated volunteers. Let me tell honourable senators about a few of the projects undertaken by the ASF.

In a joint effort with the Nova Scotia Salmon Federation, which is a council of the ASF, the ASF has completed a lime treatment of the West River which feeds into Sheet Harbour, Halifax County, Nova Scotia. This acid rain mitigation is the only one of its kind in North America. It cost \$700,000, all private funds.

The ASF has undertaken other projects in Nova Scotia, including at Big LaHave Lake in Lunenburg County which feeds into a river system. This is a multi-year liming project to enhance the fish habitat and salmon population, and this work is being done with the participation of the LaHave River Salmon Association.

The ASF has done work on the fish habitat of the Margaree River in Inverness County and the St. Mary's River. It has done that work in conjunction with local volunteers.

In Nova Scotia, we have the "Adopt a Stream" program whereby a portion of one's sport fishing licence fee goes to this program. It is administered by the Nova Scotia Salmon Federation. This fund amounts to approximately \$300,000 per year and, when the volunteer hours and donated materials are factored in, that figure is multiplied threefold to a total contribution of nearly \$1 million.

• (1510)

The ASF has also done physical habitat reconstruction work on the River Philip in Cumberland County, where it also carries out an angler mark and recapture program to assist in estimating the fish population.

Further, the ASF has done liming to improve the water quality of the Gold River in Lunenburg County. It has done so in association with the volunteer Bluenose Coastal Action Foundation.

The ASF has done other good works in the Sackville River in Halifax County and the Cheticamp River tributaries in Inverness County.

Another interesting project of the ASF is its tagging program. Sonic tags are attached to smolts which are released into the wild and tracked. When the fish cross a line of signal receivers, their movements are monitored, and this work assists in determining the waters in which the fish may encounter problems.

Honourable senators, I cite all of these works to demonstrate the significant contribution by ASF to our river systems, fish habitat, fish population and the economic enhancement of our communities.

Unfortunately, the budget bill of 2012 does not seem to have much in it for the protection of fish habitats. Under the Fisheries Act section, the government will eliminate certain reporting requirements and will change the way in which fish habitats are protected to a complex, two-step process. The proposed changes will narrow the scope of waterways to be protected and will only require intervention when “serious harm” will be caused to fish. This sounds to me like a loosening of the rules. I hope not.

Honourable senators, it is incredibly important for us to lend our support to the protection of our wild Atlantic salmon fishery. We know that this recreational fishery boosts our economy, and we know that protecting our wild salmon is paramount for us as stewards of our environment. Protecting the wild Atlantic salmon and promoting the economy are not competing concepts. In fact, they can be harmonious and to the benefit of all. I hope this inquiry by Senator Meighen accomplishes just that.

(On motion of Senator Maltais, debate adjourned.)

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I would like to draw to your attention the presence in the gallery of members of the French delegation from the Institut pour la Justice.

We are pleased to welcome Xavier Bebin, a jurist and criminologist and general representative of the Institut pour la Justice; Marie-Alix Maissonable, institutional relations representative for the Institut de la Justice; Jean Pradel, professor emeritus of criminal law at the Université de Poitiers, Institut pour la Justice special advisor, former committing magistrate and scientific director of the Revue pénitentiaire et de droit pénal; and Alexandre Baratta, psychiatrist, Institut pour la Justice special advisor and expert at the Cour d’appel de Metz.

They are guests of our colleague, the Honourable Senator Boisvenu. On behalf of all honourable senators, I would like to welcome the distinguished delegation from France to the Senate of Canada.

[English]

### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

#### FIRST REPORT OF COMMITTEE—MOTION TO DISCHARGE REPORT FROM ORDER PAPER AND REFER TO COMMITTEE OF THE WHOLE— POINT OF ORDER—DEBATE SUSPENDED

**Hon. Claude Carignan (Deputy Leader of the Government),**  
pursuant to notice of May 16, 2012, moved:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

That this Committee of the Whole meet each Tuesday the Senate sits after the adoption of this motion, at the end of Government Business, until its work is completed, without having to report progress and seek leave to sit again;

That, while this Committee of the Whole is meeting the provisions of rules 6(1), 13(1), and 84(2) be suspended, with the Senate continuing to sit until the committee has completed its work for that day;

That business of this Committee of the Whole be conducted according to the following schedule:

- (a) during the initial period of the first meeting senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes’ speaking time allowed under rule 84(1)(b);
- (b) after this initial period, which shall last a maximum of one hour, the committee shall consider chapters one, two, three, and four of the First Appendix of the report for a maximum of one additional hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (c) during the initial portion of the second meeting the committee shall consider chapters five, six, seven, eight, and nine of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (d) during the second portion of the second meeting, the committee shall consider chapters ten, eleven, and twelve of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (e) during the initial portion of the third meeting, the committee shall consider chapters thirteen and fourteen of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (f) during the second portion of the third meeting, the committee shall consider chapters fifteen and sixteen and the appendices of the First Appendix of the report for a maximum of one hour, after which the



chair shall interrupt proceedings to put all questions necessary to dispose of these chapters and appendices successively, without further debate or amendment;

- (g) after completing its consideration of the First Appendix of the report at the end of the third meeting, the committee shall consider its recommendation to the Senate as to whether or not the report should be adopted, with amendments if appropriate, for a maximum of 30 minutes, after which the chair shall interrupt proceedings to put all questions necessary to dispose of any business successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

That, as a general practice, the committee consider the First Appendix of the report chapter by chapter, and, in particular, it shall proceed in this manner if the chair is required to interrupt proceedings to put all questions; and

That the chair report the result of the committee's work, with a recommendation to adopt the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament or not, along with any proposed amendments, during Presentation of Reports from Standing or Special Committees during Routine Proceedings as soon as convenient after it has completed its work.

**The Hon. the Speaker:** Is there debate? Are honourable senators calling for the question?

**Some Hon. Senators:** Question.

**Hon. Anne C. Cools:** Honourable senators, I was looking forward to hearing someone speak to this matter.

**The Hon. the Speaker:** The floor is open, but I have heard honourable senators call for the question.

**Some Hon. Senators:** Question.

**Senator Cools:** Perhaps honourable senators are being a little hasty and perhaps the honourable senator proposing this motion would make himself open for questions.

**The Hon. the Speaker:** On debate.

**Senator Stratton:** Question.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**Senator Cools:** Honourable senators, I had been hoping to speak to this matter, and I had been planning to move the adjournment once Senator Carignan had spoken so that I could respond. However, it appears that he is not about to speak to his motion. I was going to raise questions to him, but now I find I have no alternative but to raise a point of order.

#### POINT OF ORDER

**Hon. Anne C. Cools:** Honourable senators, I would like to begin by saying that I thank His Honour for his ruling of April 25 on this matter. I especially thank him for his clarity of mind. Honourable senators may not be aware of this, but our Speaker Kinsella has attained great respect throughout the world for his clarity of mind, for his clear positions, and for his contributions to parliamentary democracy which I think are outstanding.

Honourable senators, since this motion has not been explained and the reading of it has been dispensed with, I will have to place on the record here, my major cause of concern. Perhaps I should begin by citing the Speaker's ruling of April 25, 2012, in which he states, at page 1682, about his suggestion:

The suggestion is that the matter could be resolved by having the First Report of the Rules Committee referred to a Committee of the Whole. The consideration of matters in Committee of the Whole is more flexible and appropriate to fully explore and debate these proposals that are before us than the restrictive nature of the formal debate in the Senate itself.

• (1520)

As honourable senators will recall, it is a well-known principle that rule 86(1)(d)(i) was intended to be used in concert with Committee of the Whole. I would like to begin by putting on the record a statement from our *Companion to the Rules of the Senate of Canada*, 1994, at page 307. It says:

When a report of the Committee on Privileges, Standing Rules and Orders recommends substantial changes in the Rules of the Senate, such report is usually referred to a Committee of the Whole for consideration.

I just wanted to put that on the record. I welcome the opportunity to go into Committee of the Whole, and I welcome the initiative to go to Committee of the Whole.

I would like to be quite clear that I am not opposed to change — I never am — and I am not opposed to rule changes. I just uphold the fact that there are certain fixed principles and concepts and rules that we should abide by when we set out to make rule changes.

Having said that, honourable senators, my concern revolves around the first paragraph of the motion, which I was hoping would be explained by Senator Carignan to clarify any difficulties or misunderstandings.

I shall quote:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

This is a huge problem, Your Honour, because if the order is discharged and if the report is discharged from the Order Paper, it can hardly be referred to a Committee of the Whole or any committee whatsoever. In a nutshell — and I shall expand on this in a moment — I am saying that this motion will not do what senators think it will do.

Before I come to the whole concept of “discharge,” honourable senators, I want to revisit the proposition that had been raised several weeks back, which is that a committee is a delegated authority and can only study that which it receives from the Senate in an order of reference. This motion is very problematic and deeply flawed. As it is worded, it is incapable of referring the report to the committee because it must first be discharged from the Order Paper.

Honourable senators, I have had no time to prepare to speak on any of this, and it is a matter I deeply regret. I am very sorry that I have been placed in this position. In any event, I shall proceed. I have some references on the discharge of an order. Discharging is no simple matter. It is a very serious matter.

The first problem I had wanted to ask Senator Carignan about this motion is that motions, once they are in the possession of the house, are not easily discharged nor are they easily transferred from one member to another. This motion was on the Order Paper for weeks under the name of Senator Smith. In fact, Senator Smith moved this very motion back in November, seconded by Senator Cordy. This motion simply cannot be sponsored by another new senator, Senator Carignan. How Senator Carignan obtained carriage of this motion or sponsorship of this motion has not been explained or put to us. I was hoping that he would have explained that today as well. However, the fact of the matter is that that it is out of order.

I shall describe a discharge. I did not have much time to prepare, as I said before. However, I do have something from *Black's Law Dictionary*, which says, in civil practice:

To discharge a rule, an order, an injunction, a certificate, process of execution, or in general any proceeding in a court —

— which this is, Your Honour. This is the high court of Parliament —

— is to cancel or annul it, or to revoke it, or to refuse to confirm its original provisional force.

A discharge means that its force has been vacated, honourable senators.

I think His Honour has had some experience with discharging orders. For his own enlightenment, on March 10, 2011, following Speaker Kinsella's ruling at page 1297 of the *Journals of the Senate* — and I would have to look up the question now — we see:

(Accordingly, the Order of the Day for the second reading of Bill S-223, *An Act to amend the Canada Pension Plan (retroactivity of retirement and survivor's pensions)* was discharged and, by order, the Bill withdrawn.)

Speaker Kinsella ordered at page 2003 of the *Debates of the Senate* that Bill S-223 be discharged from the Order Paper.

Discharging this order by this motion is not a simple matter. It is not something whimsical. It is something, Your Honour, that has to involve the senator who originally moved that motion, Senator Smith. I shall come to that in a moment. Let us

understand what “to discharge an order” means. It is rarely done. There are many precedents in the House of Commons and some in the Senate. Discharge means that the order is gone. It is not before us. It has been discharged. Therefore, it is not available to us for use, to be referred to a committee or even to be debated, because it has been discharged, and ordered withdrawn from the Order Paper.

I come to the phenomenon in the possession of the house and the process for the withdrawal of motions because the proper thing that should have happened with this motion to adopt this first report is that the mover of the motion, Senator Smith, should have risen and asked to withdraw his motion and to seek of the Senate. This would have allowed another and new motion to be moved, to refer the first report of the Rules Committee to the Committee of the Whole.

I shall continue with the concept in the possession of the house. According to Marleau and Montpetit, *House of Commons Procedure and Practice*, page 974:

Once a notice has been transferred to the *Order Paper* and moved in the House, it is considered to be in House's possession and can only be removed from the *Order Paper* by an order of the House; that is, the Member who has moved the motion requests that it be withdrawn, and the House must give its unanimous consent.

I did not have the time, honourable senators, to do the kind of work that I wanted to do for this speech. My intention was not to raise a point of order but to suggest corrections on the floor as to how this could be dealt with here and now, before the motion was voted on.

My other reference, Your Honour, comes from Mr. Bourinot, fourth edition, page 328:

When a motion has been stated by the speaker to the house, and proposed as a question for its determination, it is then in the possession of the house, to be decided or otherwise disposed of according to the established forms of proceeding.

• (1530)

Honourable senators, what I am saying is that the withdrawal of an item from the Order Paper and its transformation into something else is a matter that deserves great thought and careful motions to that end, but it must involve the senator who moved the motion originally.

Having said that, honourable senators, I come to the question of withdrawal of motions from the Order Paper. I know some may think this is tedious, boring and arcane, but I submit that it is extremely important.

I go now to John George Bourinot and Gilbert Campion. One is a Canadian reference and the other is British. I am citing from *An Introduction of the Procedure in the House of Commons* by Gilbert Campion, 1947, headed “Withdrawal of Motion.” It states:

To withdraw a motion the Member who moved it must signify his desire in the House.



Not by letter, but "in the House." Campion continues:

The Speaker then 'takes the pleasure' of the House by saying, "Is it your pleasure that the motion be withdrawn?" Provided no one objects, he declares the motion withdrawn. It must be borne in mind that, when an amendment has been moved to a motion, the motion cannot be withdrawn until the amendment has been disposed of.

There is quite a lot of information on this particular matter.

I go now to Mr. Bourinot.

**The Hon. the Speaker:** Before the honourable senator moves on to the next point I wish to interrupt.

(Debate suspended.)

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I would like to point out the presence in the gallery of a group of grade seven students from Edmonton's École Joseph-Moreau. I welcome them as guests of our colleague, the Honourable Senator Tardif.

On behalf of all honourable senators, welcome to the Senate of Canada.

[English]

### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE—MOTION  
TO DISCHARGE REPORT FROM ORDER PAPER  
AND REFER TO COMMITTEE OF THE WHOLE—  
POINT OF ORDER—SPEAKER'S RULING—  
MOTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, seconded by the Honourable Senator Tardif:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

That this Committee of the Whole meet each Tuesday the Senate sits after the adoption of this motion, at the end of Government Business, until its work is completed, without having to report progress and seek leave to sit again;

That, while this Committee of the Whole is meeting the provisions of rules 6(1), 13(1), and 84(2) be suspended, with the Senate continuing to sit until the committee has completed its work for that day;

That business of this Committee of the Whole be conducted according to the following schedule:

- (a) during the initial period of the first meeting senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes' speaking time allowed under rule 84(1)(b);
- (b) after this initial period, which shall last a maximum of one hour, the committee shall consider chapters one, two, three, and four of the First Appendix of the report for a maximum of one additional hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (c) during the initial portion of the second meeting the committee shall consider chapters five, six, seven, eight, and nine of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (d) during the second portion of the second meeting, the committee shall consider chapters ten, eleven, and twelve of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (e) during the initial portion of the third meeting, the committee shall consider chapters thirteen and fourteen of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (f) during the second portion of the third meeting, the committee shall consider chapters fifteen and sixteen and the appendices of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters and appendices successively, without further debate or amendment;
- (g) after completing its consideration of the First Appendix of the report at the end of the third meeting, the committee shall consider its recommendation to the Senate as to whether or not the report should be adopted, with amendments if appropriate, for a maximum of 30 minutes, after which the chair shall interrupt proceedings to put all questions necessary to dispose of any business successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

That, as a general practice, the committee consider the First Appendix of the report chapter by chapter, and, in particular, it shall proceed in this manner if the chair is required to interrupt proceedings to put all questions; and

That the chair report the result of the committee's work, with a recommendation to adopt the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament or not, along with any proposed amendments, during Presentation of Reports from Standing or Special Committees during Routine Proceedings as soon as convenient after it has completed its work.

**Hon. Anne C. Cools:** Honourable senators, I was just about to cite John Bourinot on withdrawal of motions from the possession of the house. In the fourth edition of Bourinot, at page 300, he says:

No member may move the discharge of a bill without notice, in the absence of the member who has it in charge and who has not given any such permission (f). Neither can any motion be withdrawn in the absence of the member who proposed it. . . .

This brings me to the conclusion that this motion is imperfect and in need of some correction and it must be looked at. I am asking Your Honour to rule on this matter.

I would also like to support these two last references with the current Senate rules and the House of Commons Standing Orders on the matter. Our Senate rules state very clearly, at number 30:

A Senator who has made a motion or presented an inquiry may withdraw or modify the same by leave of the Senate.

The House of Commons rule, the equivalent from their standing orders, May 2011, Standing Order 64, says:

A Member who has made a motion may withdraw the same only by the unanimous consent of the House.

Having said that, honourable senators, this order of reference is therefore imperfect and flawed and needs correction because the matter of the carriage, the carriage of the motion — the ownership so to speak — and the phenomenon of discharging of a motion must be addressed. As a matter of fact, there might have been no problem, perhaps, if these two actions had been separated into two motions. However, they are joined. In actual fact, the discharging of the order is called for prior to referring it to Committee of the Whole. This is a very important matter.

I suggested to someone earlier that a better way to accomplish this end might have been to move, as Senator Molson did on December 10, 1968, that the consideration of the motion be postponed until after the completion of the work of the Committee of the Whole.

Honourable senators, I do want these questions answered. I would like to say as well that the second defect in this motion to refer the report to Committee of the Whole is that it is unclear on its purpose for referring the report to the committee. This motion does not in any way touch the issue that prompted the need for

the Committee of the Whole. Essentially, the issues was the serious concern about questions of order, particularly the limit of the committee's mandate under rule 86(1)(d)(i), and the sufficiency of that rule to authorize the committee's total repeal and replacement of the Senate rules. This should be clearly aired in Committee of the Whole. It is a well-established principle that an order of reference, which is what this motion is, must be clear and precise because it is a delegated authority. In delegating such authority, we must also understand that the Committee of the Whole has no choice but to be limited to the confines of this motion.

That which is not in that order of reference, no Senate committee can study. I would like to cite Reginald Palgrave, *The Chairman's Handbook*, 1933:

A Committee being a body endowed with delegated powers cannot act independently of its originating authority or exceed the commission entrusted to it, or entrust its duties to others.

That was the question I raised in my previous point of order on March 27, namely, that a delegation to a subcommittee is a very questionable matter. I crossed that bridge in a profound way many years ago with Senator Fraser and Senator Stratton on the Senate National Finance Committee when they, as part of a subcommittee, wanted to conduct a study. In different discussions I made sure that I upheld the government's position, and I also ensured that the estimates were not referred to the subcommittee. The subcommittee could study much on emergency preparedness, social questions, but not the estimates themselves. I made sure that the name of the subcommittee was emergency preparedness and readiness, rather than a committee studying the estimates. We were clear not to delegate the estimates to the subcommittee being a delegated authority because a committee cannot delegate its mandate to a subcommittee. As I have said before, a committee cannot entrust its mandate or duty to a subcommittee.

• (1540)

Palgrave continues:

The assistance of those who appoint the committee is its legitimate function.

Honourable senators, it is the difficult duty of the Speaker to deliberate and examine these questions and to do so fairly and justly. I have read much on the origins of the powers of chairmen, of the casting vote and the origins of the powers of the Speakers of the two houses. It is an interesting history. The Senate Speaker has a different history from the Speaker of the House of Commons.

One of the duties of every person who finds himself in the chair is as follows:

A Chairman is bound to decline to put from the Chair a Motion or Amendment which is out of order . . .

It continues:

. . . or as containing irregular or illegal proposals, or offensive or disloyal expressions. This is his duty, because he is to this extent responsible for a Question he may submit to the consideration of the Meeting.



Honourable senators, I have tried to stay clear of the substantive questions in the motion. I could have raised some points of order on the fact that a large portion of this motion is more in the vein of mandatory instructions to committees and not in the manner of an order of reference. Anyone who has ever been involved in writing an order of reference knows that it is very difficult.

In any event, honourable senators, this is the best I could do in the circumstances in which I have found myself. I will take the opportunity to say again that I have always condemned, and will always condemn, what I will describe as, to use the words of Sir Wilfrid Laurier, “indecent haste” in moving proposals along to a vote, to quick conclusions, without debate, none whatsoever in this instance. I think this is a shame. There was absolutely no debate on an extremely important and, I would say, extremely welcome motion.

Honourable senators, we have nothing, at the end of the day, but these rules. I would like to remind honourable senators that all that stands between humanity and chaos and destruction are fixed rules and fixed principles. I would like to quote the ancient, most distinguished House of Commons Speaker Onslow. I found this in the 1828 *Manual of Parliamentary Practice* of the Legislative Council of Upper Canada.

... nothing tended more to throw power into the hands of Administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, these rules. That the forms of proceeding, as instituted by our ancestors, operated as a check and control on the actions of ministers, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

Honourable senators, I have spent a lot of time in my years in the Senate in a minority position upholding important principles and fundamentals from which we should never stray. I will not take any more time, but it is a well-known fact that when fixed rules and fixed principles are abandoned, the result can never be good.

[Translation]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I would like to point out that this is a request to discharge the motion to adopt the report and not a withdrawal of the motion.

This is a request to discharge the motion following the ruling that His Honour the Speaker made following a point of order raised by Senator Cools. His Honour the Speaker strongly recommended that we proceed in the following fashion. I will read the end of his ruling.

The chair is reluctant, however, to set aside the excellent work of the Rules Committee based on an arguable procedural point. The suggestion is that the matter could be resolved by having the First Report of the Rules Committee referred to a Committee of the Whole. The consideration of matters in Committee of the Whole is more flexible and appropriate to fully explore and debate these proposals that are before us than the restrictive nature of the

formal debate in the Senate itself. This suggestion would serve the dual purpose of providing all honourable senators with an opportunity to clarify the purposes and principles behind the work of the report and express themselves on it before being asked to decide on the work itself. At the same time, it would prevent us from losing the significant body of work performed by our colleagues on the Rules Committee.

So, to be clear, the chair is making a strong recommendation that the matter be referred to a Committee of the Whole.

Honourable senators, this is a very wise decision that will allow all senators to have their say, study the Rules and take ownership of them. This will also allow Senator Cools to share her knowledge, propose amendments and propose improvements based on her experience that might be made to the draft Rules that would be submitted.

Thus, we are merely abiding by His Honour's ruling by referring the report to a Committee of the Whole. We are also doing so through a discharge, given that before we can refer this document or this report to a Committee of the Whole, the ruling must first be discharged. This can be done by the Senate — which is sovereign — and I do not believe that we need a motion for withdrawal in the context of a regular motion moved by a senator, because it is not in fact a withdrawal, but rather a discharge. In the case of a withdrawal, we need the consent of the individual who moved the motion, but that is not so in the case of a discharge, given that it involves a decision that must be made through a majority vote in the Senate.

When His Honour has heard enough or believes to have heard enough information to reach a decision, a ruling as soon as possible would be most appreciated.

• (1550)

[English]

#### SPEAKER'S RULING

**The Hon. the Speaker:** Honourable senators, I want to thank Honourable Senator Cools for raising her point of order. Because this house was very generous to the Speaker in affording sufficient time for me to very carefully study the point of order that resulted in the Speaker's Ruling, I feel very comfortable that I am familiar with the procedural literature on the issue. Therefore I am prepared to rule on this point of order forthwith.

The question that is really before the Speaker is whether or not this motion is properly before the house: Is this motion in order? The motion is moved by the Honourable Senator Carignan, seconded by the Honourable Senator Tardif. In my opinion, it is clearly in order and I will give reasons why it is my opinion that this motion is in order.

First and foremost, the motion is in order because proper notice was given. That proper notice afforded even this member of this honourable house to have the chance to study the motion in detail. We are all familiar with what is being proposed. Clearly, this motion which has been subject to debate is open for debate, and after debate, it is open to a determination. The motion is also subject to amendment. Therefore the house is fully possessed of this proposition and it can change and modify the motion.

To the question as to whether or not matters do not appear every day on the daily Order Paper, often we have a bill or a matter that is being debated in the chamber and it is on the Order Paper of the chamber, but we do not keep things on the Order Paper when we refer them to our standing committees. Indeed, bills themselves are sent to our committees.

However, there is a practice that these matters will return to this chamber if such steps as third reading will occur in the case of bills. This cannot happen in committee. The bill must come back to the chamber. Equally, any decisions taken in committees dealing with reports are simply that.

Honourable senators, I take this opportunity to point out that our committees often have their committee reports made public and there is great discussion. The great discussion across the land is that this is the view of the Senate of Canada on whatever subject matter has been studied by a committee. Of course it is not, unless that report has been adopted by the Senate. Up to that point, it is only the opinion and recommendation of a committee. It is a committee report.

This is why, if you at look our own records, senators have often raised questions of privilege concerning reports being made public before they were tabled with the Senate, giving honourable senators the opportunity to concur or to disagree or to raise cautions about the content of reports. There is no question that the final decisions are made in this chamber by all honourable senators.

Does the house have the right to instruct its committees to do things? Some honourable senators will remember, not too long ago, in 2004, we had here Bill C-250. I remember Senator Murray was dealing with the bill, which had to do with an amendment to the Criminal Code on hate propaganda. A question of privilege was made around that. The Speaker ruled, on April 28, 2004, that the instructions to the committee were quite appropriate and the intent of the motion was clear, et cetera. Then, as I reviewed some of the procedural literature as to whether this chamber can do what is proposed to be done in this motion, for example, in the privileges of the House in *Beauchesne's* fifth edition, at page 13, paragraph 21:

The most fundamental privilege of the House as a whole is to establish rules of procedure for itself and to enforce them. A few rules are laid down in the British North America Act, but the vast majority are resolutions of the House which may be added to, amended, or repealed at the discretion of the House.

This is important, honourable senators:

It follows, therefore, that the House may dispense with the application of any of these rules by unanimous consent on any occasion . . .

And we often do that.

. . . or, by motion, may suspend their operation for a specified length of time.

This underscores the principle that this house, this chamber, is the master and this motion, which I find to be very much in order, is reflecting the exercise by this house of its privilege to operate as it proceeds and its committees to operate the way they see the committees should operate.

According to *Beauchesne's* fourth edition, at paragraph 10:

Standing Orders may be suspended for a particular case without prejudice to their continued validity, for the house . . .

In the more recent publication of O'Brien and Bosc, once again it is made clear that it is the exclusive right of the house to regulate its own internal affairs, there is reference to its control of its own debates, agenda and proceedings. Therefore the procedural literature is very clear and would support that this motion is in order, is subject to amendment and, at the end of the day, it will be a determination of the chamber.

Honourable senators, we had called for debate, and the motion is in order.

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Senator Cools:** On division.

(Motion agreed to, on division.)

[Translation]

## ADJOURNMENT

### MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, May 29, 2012, at 2 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, May 29, 2012, at 2 p.m.)



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# DEBATES OF THE SENATE

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1st SESSION

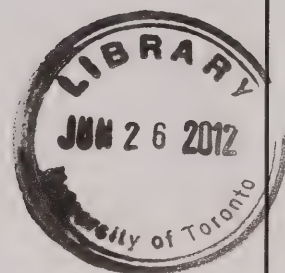
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OFFICIAL REPORT  
(HANSARD)



Tuesday, May 29, 2012

The Honourable NOËL A. KINSELLA  
Speaker



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(Daily index of proceedings appears at back of this **issue**).

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## THE SENATE

Tuesday, May 29, 2012

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for Senators' Statements, I wish to draw your attention to the presence in the gallery of a Parliamentary Delegation of Officers of the Rajya Sabha from the Republic of India, another commonwealth parliament.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Honourable senators, also present in the gallery are a distinguished delegation from Kyrgyzstan led by Her Excellency Roza Otunbayeva, Former President of Kyrgyzstan; Mr. Muktar Djumaliyev, Ambassador of Kyrgyzstan to Canada and the United States of America; Ms. Nurjehan Mawani, Diplomatic Representative of His Highness the Aga Khan in Kyrgyzstan; Ms. Mira Karybaeva, Director, Department for Inter-Ethnic Relations, Religious Policy and Relations with Civil Society; Ms. Elvira Saryeva, Chairperson of the Public TV and Radio Corporation; and Mr. Janybek Iraliev, First Secretary of the Kyrgyz Embassy. They are the guests of the Honourable Senator Di Nino.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

### SENATORS' STATEMENTS

**MS. ROZA OTUNBAYEVA**

FORMER PRESIDENT OF KYRGYZSTAN

**Hon. Consiglio Di Nino:** Honourable senators, occasionally during one's life one comes across an extraordinary person who helps to change the course of history. I met Roza Otunbayeva several years ago during an OSCE Parliamentary Association conference and, over the years, have come to know her and her views. She was a member of the Kyrgyzstan parliamentary delegation, the only delegation of the OSCE from Central Asia that had more than one party represented.

She is a distinguished academic, including head of the Philosophy Department at the Kyrgyz State National University. As a diplomat, she held several ambassadorial postings, including to

the U.S.A. and Canada, and served as Foreign Minister and Deputy Prime Minister of the first independent Kyrgyzstan government.

As a key leader of the Tulip Revolution, she helped to overthrow President Akayev, as well as played a leadership role in the 2006 protests that led to a new democratic constitution. She also headed the parliamentary opposition group, the Social Democratic Party of Kyrgyzstan.

Following the popular revolution of 2010 and the overthrow of President Bakiyev, she was selected to head the Kyrgyz interim government and subsequently became its President, becoming the first female head of state in Central Asia.

U.S. First Lady Michelle Obama presented this inspirational woman with the U.S. State Department's 2011 International Woman of Courage Award, and U.S. Secretary of State Hillary Clinton described her as "a woman who I think can stand as an example to many leaders around the world about what democracy and power should be used for, to help the people that you are supposed to serve."

Let me close with some of Ms. Otunbayeva's own words spoken at the award ceremonies:

The Almighty provided us with such a powerful sense of dignity that we cannot tolerate the denial of our unalienable rights and freedoms . . . It is the magic of people, young and old, men and women of different religions and political beliefs, who come together in city squares and announce that enough is enough.

She continued:

The new country we are building is inclusive and grounded in the rule of law. We choose to celebrate our differences and to resolve them not in the streets but in Parliament via democratic channels. Through all of this, the Kyrgyz people have persevered. . . . The path to democracy is not easy but it is the only way forward.

• (1410)

Last night, Ms. Otunbayeva was introduced by His Highness the Aga Khan as the inaugural speaker at the Annual Pluralism Lecture of the Global Centre for Pluralism in Ottawa.

Honourable senators, please join me in saluting Roza Otunbayeva, a true inspiration for us all.

**Hon. Senators:** Hear, hear.

**Hon. Mobina S.B. Jaffer:** Honourable senators, I also rise to pay tribute to Her Excellency Roza Otunbayeva, the former President of the Kyrgyz Republic.

Yesterday evening during an event of the Global Centre for Pluralism held at the Delegation of Ismaili Imam, I had the privilege of hearing President Otunbayeva deliver an inaugural lecture on the prospects and challenges of pluralism in the Kyrgyz Republic and Central Asia. The launch of the annual lecture by the Global Centre for Pluralism was attended by a number of distinguished guests, most notably the Chairman of the Board of Directors for the Global Centre for Pluralism, His Highness Prince Karim Aga Khan, and board members Princess Zahra Aga Khan, the Right Honourable Adrienne Clarkson and Mr. Khalil Shariff. Also in attendance were the Right Honourable Beverley McLachlin, Chief Justice of Canada; Minister Baird; Minister Oda; Minister Kenney; our esteemed colleague, Senator Di Nino; Mr. John McNee, Secretary General of the Global Centre for Pluralism; and Mrs. Nurjehan Mawani, the Aga Khan's diplomatic representative to the Kyrgyz Republic.

Honourable senators, while listening to President Otunbayeva's address, I was fortunate enough to witness how the hard work, vision and dedication of one person could help to change the course of an entire nation, leading them through hardship and diversity.

Throughout her life, both as a politician and as a passionate advocate of democracy, President Otunbayeva has rendered a great service to the people of Kyrgyzstan and has led them through a number of difficult and challenging times. In 2005, she was one of the key figures in the Tulip Revolution, paving the way for stability and democracy.

In 2010, she was the first female president in Central Asia. Under her leadership, the people of Kyrgyzstan voted on a new constitution, establishing Central Asia's first parliamentary democracy. Most significantly, she dedicated herself to the first peaceful and constitutional transfer of power between presidents in Central Asia — a remarkable achievement with tremendous implications for governance inside and outside the Kyrgyz Republic. I am also pleased to inform honourable senators that President Otunbayeva served as Kyrgyzstan's first ambassador to Canada.

Yesterday evening, I listened with great admiration as she spoke of the challenges faced by the people of Kyrgyzstan and how she hoped to learn from Canada about how to create a society that embraces difference and thrives on diversity. I was truly humbled and pleased to hear her speak of Canada with such high regard, especially when discussing bilingualism and diversity.

Honourable senators, while introducing President Otunbayeva, His Highness the Aga Khan described her as a remarkable leader and woman of courage, conviction, integrity and foresight. The Aga Khan commended her for her remarkable achievements in cultivating shared citizenship for the diverse population of Kyrgyzstan.

I applaud President Otunbayeva for having successfully guided the people of Kyrgyzstan in their quest for democracy, while always safeguarding human rights. We admire her courage and foresight and look forward to working with her.

## INDIA

### PARLIAMENTARY DELEGATION OF OFFICERS OF THE RAJYA SABHA

**Hon. David Tkachuk:** Honourable senators, this week the Senate of Canada is honoured to receive as its guests a delegation from the upper house of India, the Rajya Sabha, at the invitation of the Clerk of the Senate. This delegation is led by the Secretary-General of the Rajya Sabha, Dr. Vivek Kumar Agnihotri, who was appointed by the Chairman of the Rajya Sabha. The position of secretary-general is equivalent to the highest civil servant in the union.

The Council of States, or Rajya Sabha, of India is the upper house of their federal Parliament. Membership to the Council of States is limited to 250 — 238 of whom are chosen by election of the state and territorial legislatures. The remaining 12 members are chosen by the President of India for their expertise in art, literature, science and social services. A term in the Rajya Sabha is six years, with one third of the membership retiring every two years.

The Rajya Sabha, unlike the lower house, the Lok Sabha, sits in continuous sessions and is not subject to dissolution. Much like our own system, committees play a key role in the Indian parliamentary system and act as an important link between Parliament and the public. There are many similarities between the Senate of Canada and the Rajya Sabha but also many differences, which we can learn from, and, because of this, we believe that the visit of the Secretary-General will be mutually beneficial.

In the course of their meetings with various Senate officials and senators, a number of administrative areas will be discussed, including communication, translation and ethics. We wish Dr. Agnihotri and his officials the greatest success in the services they provide to the Council of States. If there is anything that the Senate of Canada can do to assist them, our officials will be pleased to do so.

### INTERNATIONAL DAY OF UNITED NATIONS PEACEKEEPERS

**Hon. Roméo Antonius Dallaire:** Honourable senators, today I rise because it is May 29, the day we commemorate the International Day of United Nations Peacekeepers. Although Canada has a national day on August 9 that commemorates the loss of a crew of 12 Canadians, including a brigadier-general, in the Middle East in the 1960s, May 29 is the day for international recognition of all peacekeepers. An estimated 3,000 have been killed in different operations around the world and several tens of thousands have been injured in a variety of ways.

During the Cold War, peacekeeping was very much a rich country's business because the UN had no capacity. Countries with capacity were the only ones who could send forces into classic chapter 6 peacekeeping. In those days, about 13 countries, mostly developed ones, were the main participants. Today, there are over 82,000 peacekeepers around the world. Interestingly enough, as our guests from India will know, India has over 8,000 personnel deployed in peacekeeping. Currently, 117 countries are involved in



peacekeeping. Where Canada once had a leadership role not only in the field but also at the different headquarters in bringing in the concepts, operations and command, giving significant command exposure and opportunities to the Canadian Forces personnel, today we have only 17 people wearing the Blue Beret.

I recently spent three and half weeks in the Congo, South Sudan, Central Africa, Uganda and Rwanda. There are two missions in the Congo, three missions in Sudan and one mission in Eritria. Interestingly, Rwanda has deployed close to 4,500 troops in peacekeeping. On that trip, a young Canadian Major, who was the second-in-command of all the liaison offices in the Congo mission, which comprises nearly 26,000 troops, was promoted to Lieutenant-Colonel and given full responsibility for the liaison with Congolese forces because of the ineffectiveness of his superior, who was fired.

It is true, as the Chief of the Defence Staff says, that it is not the number but the value added in specific places that can be of great service. However, there is a requirement for numbers on the ground. As we have seen in Syria, the necessity of having eyes and ears on the ground is critical to the international community accomplishing its mission of responsibility to protect the advancement of human rights.

Honourable senators, there are missions screaming for Canadian capability. We have walked away from this role. It is high time we return to it and recognize the sacrifices of those of the past.

#### NATIONAL MARINE MANUFACTURERS ASSOCIATION

**Hon. Gerald J. Comeau:** I take this opportunity to remind honourable senators that the members of the National Marine Manufacturers Association, referred to as NMMA Canada, are in Ottawa today meeting with parliamentarians. NMMA Canada is the nation's leading trade association representing both marine engine and accessory manufacturers. Collectively, association members manufacture an estimated 80 per cent of marine products used in North America. The National Marine Manufacturers Association acts as a unifying force and a powerful voice for the recreational boating industry, working to strengthen and grow boating in many regions across Canada.

• (1420)

The recreational boating industry's economic impact is nearly \$15 billion, generated through creating local jobs and enabling small businesses in regions across our nation. I ask all parliamentarians to join me in recognizing the association's important contribution to economic growth and tourism in Canada and would also like to remind honourable senators of the reception being held at 5:30 today, in room 256-S Centre Block, to which you are invited.

#### LITTLE WARRIORS

##### AWARENESS, PREVENTION AND TREATMENT OF CHILD SEXUAL ABUSE

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, on Monday, May 28, I had the great pleasure and honour of attending the first annual Be Brave Luncheon, supporting Little Warriors, in Edmonton.

Little Warriors is a national organization dedicated to the awareness, prevention and treatment of child sexual abuse. Its aim is to help to change the world for the lives of children and youth who have been damaged by the violent acts of sexual abuse. I am very proud to sit on the organization's board of directors and to contribute to its long-standing commitment to ending child sexual abuse. The first Be Brave Luncheon was a fundraiser for the Little Warrior's \$3.4-million project aimed at building the Be Brave Ranch, Canada's would-be first treatment centre specifically designed to help child sexual abuse survivors.

During the luncheon, former NHL player Theo Fleury described his personal story of sexual abuse in a presentation called "Don't Quit Before the Miracle." He reminded us that courage is contagious, that even though there are many wonderful, innovative ideas for change in the world, the only way they can effectively make a difference is if somebody stands out, speaks out and finds the bravery it takes to do something no one has done before.

It is these brave souls that make a real difference and motivate others to do the same.

[Translation]

Honourable senators, education and information go hand in hand with child sexual abuse prevention. One in three girls experiences an unwanted sexual act at an average age of 12. One in six boys experiences an unwanted sexual act at the average age of four. A disquieting 95 per cent of child sexual abuse victims know their perpetrator. The vast majority of victims of this type of abuse suffer consequences ranging from drug and alcohol abuse to serious psychological disorders. These facts tell an alarming story.

However, child sexual exploitation remains taboo, difficult to talk about and painful to discuss. I want to commend the Little Warriors for their continued dedication to prevention and raising awareness of this serious issue, and those who attended the benefit lunch for taking a stand against this type of abuse.

[English]

Honourable senators, Theo Fleury offered us a message of hope, hope to one day be able to confront the past, hope to be able to help other victims, hope to move forward and hope to prevent other children from suffering.

Please join me in honouring his story and in thanking Little Warriors and Glori Meldrum, the organization's founder and chair, for working tirelessly to provide a safety net for our children, a place and people for them to turn to when they need help, and the tools and resources needed for them to heal.

#### REPUBLIC OF AZERBAIJAN

**Hon. Salma Ataullahjan:** Honourable senators, I rise today to commemorate the ninety-fourth Independence Day of Azerbaijan. On May 28, 1918, Azerbaijan was proclaimed a republic. It was the first successful attempt to establish a democratic state in the Muslim world. I would like to emphasize that Azerbaijan was



the first Muslim country to grant women equal political rights. Women were granted the right to vote in the same year as independence, 1918, one year later than in Canada and two years earlier than in the United States.

Even before this historic occurrence, Azerbaijan had promoted the status of women. In 1901, the first secular girls' school was opened, the first of its kind in the Russian empire. In 1908, Sona Valikhan became the first certified Azeri female physician. Since gaining the right to work, the women of Azerbaijan have participated in all facets of life, including politics. The first female cabinet minister was appointed in 1934, and the first female head of Parliament in 1964. More recently, in 2009, a woman was appointed Major-General, the third highest military rank in the nation.

Although the life of the republic was cut short by the occupation by the Bolsheviks in 1920, the founders laid the groundwork for building a modern and secular statehood. Azerbaijan restored its independence in 1991 after the collapse of the Soviet Union. I would like honourable senators to join me in wishing Azerbaijan a happy Independence Day.

I hope the country will continue to prosper in the development of its democracy, especially in regard to women's rights, equality and representation.

[Translation]

## SHAWINIGAN CATARACTES

### CONGRATULATIONS TO 2012 MEMORIAL CUP WINNERS

**Hon. Michel Rivard:** Honourable senators, a small city in central Quebec made sports history this past Sunday. After 43 years of waiting and despite always having a competitive team, this city has never had the honour or pleasure of winning this highly coveted trophy.

Let us not forget that Shawinigan has the oldest franchise in the Quebec Major Junior Hockey League. This past Sunday, a team of motivated young players won the Memorial Cup, the trophy given to the best major junior hockey team in the country.

Shawinigan had the honour of hosting this prestigious event this year and as the host city, it had to organize a week of festivities for its local fans and countless visitors and scouts: mission accomplished!

Sports experts did not expect the Cataractes to win this coveted title. Yet, with the support of fans and extraordinary performances by every player, they were successful. Often success is a result of many elements coming together. That is why I would like to congratulate the players; the head coach, Éric Veilleux, and his assistant coaches; the general manager, Martin Mondou, and his assistant manager; and the board of directors, which is led by the passionate Réal Breton from Quebec City, president and one of 18 shareholders from the business community.

To all the players, coaches, administrators, fans, municipal authorities and the organizing committee, congratulations and thank you for the excitement of the past week after 43 years of waiting. We look forward to another win in the near future.

## THE LATE MR. GEORGES-HENRI GAGNÉ

**Hon. Ghislain Maltais:** Honourable senators, I am very sad to rise today to mark the passing of a great man from the North Shore, Georges-Henri Gagné, who was mayor of his community for 25 years, reeve of the Manicouagan RCM for over 20 years and chair of the Conférence des élus de la Côte-Nord.

As a member of Parliament for the North Shore, I had the privilege of working with Mr. Gagné for about 12 years. I think it is important to remember those who serve in public office and who inspire our younger generations.

Mr. Gagné was a good father. He raised three children and made sure that they received a good education. Leaving the North Shore often means living in Quebec City or elsewhere. Mr. Gagné was a family man and a public figure. I think that, over all those years, he set himself apart by putting aside any possible or conceivable partisanship.

His only goal was to loyally serve his fellow citizens. He did so with a proverbial smile. He was a man who loved the outdoors, hunting and fishing. He knew how to recognize what is most precious in the North Shore: peace and the strength to work for the people of the community.

Mr. Gagné set a good example for the young people of the next generation, who will be able to follow in his footsteps in the coming years and to make remarkable progress in developing the North Shore, as he did.

• (1430)

[English]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for the tabling of documents, I wish to draw your attention to the presence in the gallery of His Excellency Milorad Živković, who is the Speaker of the House of Representatives of Bosnia and Herzegovina. He is accompanied by the Distinguished Ambassador of Bosnia and Herzegovina, Her Excellency Biljana Gutić-Bjelica.

We are doubly privileged because the Deputy Speaker of the House of Representatives of Bosnia and Herzegovina, Mr. Denis Bećirović, is with the delegation, together with Mr. Martin Raguž, member of the House of Peoples, and Mr. Drago Kalabić, member of the House of Representatives and Chairman of the Parliamentary Friendship Group Canada-Bosnia and Herzegovina.

On behalf of all honourable senators, we welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

[Translation]

## ROUTINE PROCEEDINGS

### PRIVY COUNCIL

#### SPECIAL ECONOMIC MEASURES (SYRIA) REGULATIONS TABLED

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, pursuant to section 7 of the Special Economic Measures Act, I have the honour to table, in both official languages, copies of the Special Economic Measures (Syria) Regulations, officially announced on May 17, 2012.

[English]

#### STUDY ON POLITICAL AND ECONOMIC DEVELOPMENTS IN BRAZIL

##### FIFTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE TABLED

**Hon. A. Raynell Andreychuk:** Honourable senators, I have the honour to table, in both official languages, the fifth report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled *Intensifying Strategic Partnerships with the New Brazil*.

(On motion of Senator Andreychuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[Translation]

### JOBS, GROWTH AND LONG-TERM PROSPERITY BILL

#### NOTICE OF MOTION TO AUTHORIZE SELECT COMMITTEES TO REFER PAPERS AND EVIDENCE ON STUDY OF SUBJECT MATTER OF BILL C-38 TO NATIONAL FINANCE COMMITTEE

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the papers and evidence that have been or will be received and taken, and work that has been or will be accomplished, by the committees to which were referred on May 3, 2012, the subject-matter of certain elements of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, except documents and other material relating

to in camera meetings of these committees, be referred to the Standing Senate Committee on National Finance for the purposes of its concurrent study on the subject matter of all of the said Bill.

[English]

### FOREIGN AFFAIRS AND INTERNATIONAL TRADE

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CANADIAN FOREIGN POLICY REGARDING IRAN

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on Thursday, February 2, 2012, the date of presentation of the final report of the Standing Senate Committee on Foreign Affairs and International Trade on the Canadian foreign policy regarding Iran, its implications, and other related matters be extended from June 30, 2012 to October 31, 2012.

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

#### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. W. David Angus:** Honourable senators, I move, with leave of the Senate and notwithstanding rule 58(1)(a):

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 5 p.m. on Tuesday, May 29, 2012, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** For clarity, the honourable senator, of course, should have given notice. If the house is agreeable, can we take that as notice? Then he has to ask for permission of the house if we are to consider it. Could I hear from the Honourable Deputy Leader of the Opposition?

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I believe it would be important to understand the reason for the request. Could Senator Angus share with honourable senators the reason for this particular request?

**Senator Angus:** Honourable senators, this motion is out of an abundance of caution in case we are not through at 5 p.m. today. We have three ministers coming on the pre-study of Bill C-38: Minister Ashfield of Fisheries and Oceans, Minister Kent of the Environment and Minister Oliver of NRCan. They have a vote in the other place. Our schedule is tight as it is, so if we are to receive their testimony, I thought it would be wise to ask unanimous consent at this time.

**The Hon. the Speaker:** I will put the motion. It was moved by the Honourable Senator Angus, seconded by the Honourable Senator Tkachuk, that the Standing Senate Committee on



Energy, the Environment and Natural Resources be allowed to sit this afternoon even though the Senate may then be still sitting. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF CURRENT STATE AND FUTURE OF ENERGY  
SECTOR AND TO DEPOSIT REPORT WITH  
THE CLERK DURING ADJOURNMENT OF THE SENATE

**Hon. W. David Angus:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on Thursday, June 16, 2011, the date for the tabling of the final report by the Standing Senate Committee on Energy, the Environment and Natural Resources on the current state and future of Canada's energy sector (including alternative energy), be extended from June 29, 2012 to September 28, 2012; and

That, notwithstanding usual practices, the committee be permitted to deposit with the Clerk of the Senate the above mentioned report if the Senate is not then sitting and that the report be deemed to have been tabled in the Chamber.

## QUESTION PERIOD

### ATLANTIC CANADA OPPORTUNITIES AGENCY

#### RURAL COMMUNITIES

**Hon. Terry M. Mercer:** Honourable senators, the attack on rural Canada and Atlantic Canada continues by this government. Recently, 50 economic development agencies in Atlantic Canada were notified that the federal portion of their operational funding will be cut by the Atlantic Canada Opportunities Agency.

Although this cut may eliminate some duplication and overlap of funding between organizations, it leaves the rural community in the dark. Over this next year, those rural organizations will be spending a fair amount of their time trying to figure out how to make up the loss of federal dollars by letting their employees go.

• (1440)

For a government that claims to be creating jobs, why is it taking away the funding that will help save employees in rural Canada from being fired? Why is it leaving rural Atlantic Canada in the dust with little help to sustain itself?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, nothing could be further from the truth. The government engages in many activities in the interests of all parts of the country. With regard to regional economic

development organizations, our government is taking action to directly support the growth of small- and medium-sized enterprises and the communities in which they are located across Atlantic Canada. The decision is about reducing duplication and focusing our efforts on providing small- and medium-sized enterprises and communities right across the region with the tools and resources they need.

Over the coming years, honourable senators, we will continue to engage with the provincial governments, municipalities and our other economic partners to explore more effective ways to work together for the benefit of all Canadians, most particularly those in rural areas across the country and in rural areas of Atlantic Canada.

**Senator Mercer:** I do not know who writes that stuff for the leader, but it has very little to do with the question. The question is, why does this government continue to attack rural Canada and, in particular, Atlantic Canada and Eastern Quebec?

I will help the leader find some of the money to put back into these programs. I think she has heard these names before. John Lynn was hired to head Enterprise Cape Breton Corporation under ACOA Minister Peter MacKay. Kevin MacAdam, a former staffer of Minister MacKay, was hired as director general of ACOA regional operations on Prince Edward Island, with a salary of \$133,000.

Patrick Dorsey was senior adviser to Premier Binns before he was named ACOA's vice-president for P.E.I. in 2007, when Minister MacKay was the ACOA minister. Cecil Clarke, a defeated Conservative candidate in Cape Breton, became a consultant to the Cape Breton County Economic Development Authority, making over \$135,000 a year.

All of these people I have named, honourable senators, somehow have a connection with Minister MacKay. Those salaries added up come to almost half a million dollars. That is a significant amount of money that could be better served in the protection and creation of jobs in Atlantic Canada. That money could create more local jobs than it does right now to support the very few employees that are making around \$133,000. Instead of removing the funding for economic development agencies, which in turn forces organizations to cut jobs in rural areas, why are these salaries not reduced or, better yet, why are these people not being fired? Why are the desires of political friends being favoured over the needs of the people in Atlantic Canada?

**Senator LeBreton:** When the honourable senator rose and suggested that he would provide a source of funds for all of this, my heart started to flutter because I thought I was about to be handed a brown envelope with \$40 million to \$50 million in it. I will try to get over the shock of it.

The honourable senator asked similar questions last week. As I pointed out, we agree with the head of the Public Service Commission that all hiring has to follow proper processes and be properly accounted for.



**Senator Mercer:** Those of us in Atlantic Canada are getting a little fed up with this government's attitude toward rural Canada.

**Senator Day:** A little?

**Senator Mercer:** I was trying to be kind.

I might recommend some reading for the minister and her colleagues around the cabinet table. I have a great document here called *Beyond Freefall: Halting Rural Poverty*. It is the final report of the Standing Senate Committee on Agriculture and Forestry, ably chaired by Senator Fairbairn, tabled in the Senate in June 2008. The deputy chair was Senator Gustafson from Saskatchewan.

In this report there are some terrific ideas about how to help rural Canada. It also outlines many of the problems in rural Canada, but we see none of that coming from this government. The report calls for a federal department of rural affairs. If we had that department today and the government had followed the recommendations of a committee of this chamber, it would not be in the trouble that it is in. Senator Comeau could have walked down the streets of Meteghan with his head held high because the government would have been doing good work.

The report also called for a national anti-poverty strategy sensitive to rural and urban differences. Instead, this government attacks rural Canadians, attacks Atlantic Canadians and cuts programs. When will the government stop cutting programs that service Atlantic Canadians?

**Senator LeBreton:** First, we are not cutting programs that affect any part of the country, most particularly rural Canadians. Having been raised in rural Canada myself and looking around at people in the agricultural industry, whether they are in Atlantic Canada, Quebec, Ontario or the West, the record is pretty clear that the agricultural industry is doing very well, not only in this country but also in terms of the many trade doors we have opened for their products around the world, including, in the West, giving them marketing choice for their products.

The honourable senator is quite incorrect in saying that the government has turned its back on Atlantic Canada or on rural Canada, because there are absolutely no facts to bear this out. The opposite is the case.

[Translation]

## ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT CANADA

### FUNDING FOR THE NATIONAL CENTRE FOR FIRST NATIONS GOVERNANCE AND HEALTH SERVICES OF THE NATIVE WOMEN'S ASSOCIATION OF CANADA

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is for the Leader of the Government in the Senate. After more than two decades of negotiations between representatives of the Canadian government and Aboriginal peoples, the United Nations Declaration on the Rights of Indigenous Peoples was adopted by a majority of the 143 states.

The declaration is part of a universal framework to ensure that states set minimum standards for the well-being of Aboriginal peoples and respect their individual and collective rights. Although the Conservative government initially voted against the declaration, it did sign in 2010 under pressure from the international community.

Recently, we learned that the Harper government intends to eliminate funding for the National Centre for First Nations Governance and the Native Women's Association of Canada's health services. These two organizations are critical to the delivery of health services, assistance, education and the management of community funds.

In light of the recommendation of the United Nations expert who condemned the lack of nutritious foods available to Aboriginal peoples and to ensure that women and children can benefit from better health through nutrition, can the government leader tell us which programs and funds will be made available to Aboriginals and when we will have a policy on funding for the transportation of perishable goods to the far North?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, we signed on to the UN declaration and not, as the honourable senator states, under pressure. We signed of our own volition. I actually did respond last week, as did Minister Aglukkaq, to the UN Special Rapporteur. We have engaged in many programs, not only in education but also with regard to food, such as the Nutrition North program. There is a long list of initiatives taken by our government specifically with respect to Aboriginal Canadians. I will be happy to provide that long list to the honourable senator by written response.

**Senator Hervieux-Payette:** The leader does not tell us exactly how the government will deliver these programs.

• (1450)

Some institutions were there to advise the government on how to do it. Certainly the leader agrees with us that they are more knowledgeable about governance and the administration of programs is very important. These two programs have been cut.

Knowing the cost of food in the North from having been there, there is no one with an average salary there who can feed themselves and their family. Of course, the fact that the native population has the highest levels of diabetes in the population is a good sign that they do not get the proper nutrition.

Could the leader tell me when the government intends to have their food delivered at the same cost as we have here in Ottawa, Toronto and the rest of the country?

**Senator LeBreton:** Honourable senators, we have the Nutrition North program and we are working with people directly affected, meaning people in the North. I dare say we have probably the best expert that any government could ever want in Minister Aglukkaq, a minister from the North. We also have a senator from the North. We rely on people from the North who are very knowledgeable about the specific challenges and obstacles faced.

The government is committed to the program. It is, as we would all understand, a unique and difficult issue because of the distances and the costs. However, the government is committed to the Nutrition North program.

I would suggest to the honourable senator that we have people in place dealing with the issue who actually know what they are talking about because they are from the North and they are working with their partners in the North to resolve this issue.

**Senator Hervieux-Payette:** Honourable senators, with a budget of over 400 pages and knowing there is a fiscal concern in this, my colleague Senator Watt has been working for a number of years to suggest to the government how to handle this question of equity and fairness, recognizing that the people living in the North are playing a vital role to ensure that the North will be developed properly.

My question is the following: Where in these 400 or more pages can I find the measure that will allow these people to live and to have the same kind of food that we have, at the same price?

**Senator Mercer:** It's not there.

**Senator LeBreton:** Honourable senators, the fact of the matter is that this program and the amount of resources that the government expends with regard to this program and others are well known and on the record. I can only assure the honourable senator that we are relying on the assistance and advice of people from the North who fully understand the issue. They live in the North in remote communities, as Minister Aglukkaq does, and understand the difficulties in transporting fresh food, especially at certain times of the year. Obviously, the aim of the government is to ensure that nutritious food is available to northerners at a reasonable price so they can avail themselves of the good quality of food that most Canadians take for granted.

[Translation]

## LABOUR

### CANADA LABOUR CODE

**Hon. Jean-Claude Rivest:** Honourable senators, my question is for the Leader of the Government in the Senate and aims to clarify the government's intentions regarding the Canada Labour Code.

For the past year, any time a strike has been announced, the government has intervened with special legislation. Of course, these have involved public services such as Air Canada, Canada Post, and now Canadian Pacific.

As we all know, under the Canada Labour Code, workers have the right to strike. They can use that right to apply economic and social pressure in order to get the results they are seeking and improve their working conditions.

Can the minister tell us if the government plans to amend the Canada Labour Code and simply do away with workers' right to strike when it comes to public services?

I think that would make things clearer, in contrast to what the government is doing now: intervening with special legislation every time workers exercise their right to strike, which, we must not forget, is guaranteed under the Canada Labour Code.

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, we have been dealing with three completely different situations. Obviously, the government believes the best solution is for the labour groups and their employers to resolve these issues through negotiation.

In the case of the current work stoppage of Canadian Pacific — and this will come as no surprise to anyone here — the government's top priority is, and has been, and will be, creating jobs, economic growth and long-term prosperity. With regard to CP Rail, the work stoppage is costing the Canadian economy an estimated \$540 million each week. Of course if that were to continue, many thousands of jobs of other Canadians will be put at risk.

To answer the honourable senator's specific question, the government still believes that the best solution to all of these situations is a negotiated settlement between labour and management. There are times — and this is one example — when the economy is put at risk and the government feels it is necessary to act.

With regard to any proposed changes to the Canada Labour Code, I will take that portion of the honourable senator's question as notice.

[Translation]

**Senator Rivest:** Honourable senators, did the Leader of the Government just say that, in the case of public services, the best solution is arbitration, rather than strike action? Is she suggesting that the government plans to amend the Canada Labour Code to eliminate the right to strike and impose arbitration for all public sector workers?

[English]

**Senator LeBreton:** Honourable senators, I did not suggest that. I hope the honourable senator is not suggesting that I suggested that. I will take the honourable senator's question as notice.

[Translation]

## FOREIGN AFFAIRS

### UNDERSTANDING CANADA PROGRAM

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate and has to do with the recent decision by the Department of Foreign Affairs to eliminate the Understanding Canada program.

The program is intended for foreign academics who want to study about or conduct research on Canada. Some components of the program are also available to promote teaching and



publications about Canada in various disciplines. It is important to note that for every dollar invested in Canada, \$14 is invested by researchers and professors from the international Canadian Studies community.

The government keeps saying that it wants to promote commerce, investment and Canadian interests abroad. What better way to promote these priorities than with such a program, one that costs the public purse very little and produces excellent results, according to the government's own verification?

Can the Leader of the Government explain the rationale behind this decision, which seems to go against the government's own priorities?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as I have said in this place many times, various government departments went through an exercise of self-assessment and came to the government with several proposals where certain agencies and activities of the government were no longer deemed to be necessary. Other organizations have filled the spot, or they have outlived their usefulness.

With regard to the specific program, I will take the honourable senator's question as notice.

**Senator Tardif:** Honourable senators, this program costs about \$5 million annually to taxpayers and results in over \$70 million of expenditures in Canada annually. This program has more than paid for itself.

To put the cost of this program into perspective, I note that Germany spends \$5 million annually on academic relations just with Canada. Furthermore, the program is an important source of leverage for acquiring additional money from other sources such as endowment funds and foreign governments. As a result, the actual impact of this cut will be magnified.

Let me quote Mr. John Graham, a former Canadian diplomat who headed the Department of Foreign Affairs' academic relations division when the program was started. He stated:

Canadian studies works like a hybrid engine. You put in a little gas and foreign universities and governments keep the battery charged. It is so cost effective that it is a no-brainer — which must mean that cutting the program would have to be a zero brainer.

Madam Leader, why is the government jeopardizing millions of dollars in economic benefits, as well as a great deal of international influence, profile and allies that helped promote Canadian interests, by cutting this program?

• (1500)

**Senator LeBreton:** Again, I would have to get the specific details, but I hasten to add that quoting people who were formerly in charge of programs that they probably devised themselves is probably not the best way of convincing me it is a good program to keep.

[ Senator Tardif ]

Honourable senators, as we went through the whole cost analysis, looking for savings in the government, each department, through their senior public servants, brought to the table programs that they had deemed were no longer effective, efficient, cost effective or that had been replaced by other programs that were yielding much better results.

With regard to this specific program, as I indicated earlier to Senator Tardif, I will be happy to provide more details by written response.

**Senator Tardif:** I thank the honourable senator for her answer. Also, I would most appreciate it if she could provide information on the program that has replaced the existing one.

**Senator LeBreton:** I did not mean to suggest that in this particular case a program might have replaced it. I am saying that, overall, people brought to the table programs that had outlived their usefulness. Some were relying on universities and some on the private sector. In this particular case, I do not know. However, if there is a replacement program, I am sure it will be part of the answer.

## FISHERIES AND OCEANS

### AMENDMENTS TO FISHERIES ACT IN BILL C-38

**Hon. Grant Mitchell:** Honourable senators, the government's continued intense, destructive attacks on the environment are now washing over into the Fisheries Act. There are many Canadians — some significant Conservatives — who feel that the Fisheries Act will pretty much be gutted by Bill C-38. Some include, for example, former Conservative Fisheries Minister Tom Siddon. He says:

This is a covert attempt to gut the Fisheries Act, and it's appalling that they should be attempting to do this under the radar.

A former Conservative MP and Conservative leader in British Columbia, John Cummins, aggressively criticizes the changes:

There is that potential for serious damage to the fisheries resource if we move in the way that's proscribed.

Mr. John Fraser, a Conservative and former Fisheries Minister, reports that at a recent meeting of the Pacific Salmon Foundation, many people came up to him. He quotes those who presented to him in this way:

"Fraser, what the hell is the government doing with the Fisheries Act? I'm not making this up," he said. "When you get two lifelong Conservatives like Tom Siddon and myself, who are prepared to go public with the very government we support, somebody ought to wake up."

I wonder if this government would be prepared to wake up, decouple the Fisheries Act provisions from Bill C-38, and consult those people in the know, in the boats, in the regions and in the industry that are affected?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for his question. I actually did read the comments of both former ministers Siddon and Fraser and thought to myself, "Perhaps it is they who should wake up and read what is proposed."

I did say in this place that I noticed the comments of the former Minister of Fisheries, Mr. Fraser. We all know what happened to him with his appointment when he headed up the Fisheries portfolio.

Regardless, as I said, we are focusing —

**Senator Mitchell:** These are her friends.

**Senator LeBreton:** If the honourable senator wants to get into what friends say about the Liberal party, I can keep him engaged for hours — diminishing friends, by the way.

In any event, with regard to the Fisheries Act, I have said in this place before that we are focusing our efforts on fish and fish habitat protection, not on farmers' fields and ditches. I am sure honourable senators, especially those from Saskatchewan, will remember that last year a major jamboree was nearly cancelled after some fields flooded. The Fisheries officials deemed that they were perhaps home to fish habitat and therefore the jamboree could not continue. This is the ridiculous kind of situation.

We are focusing on fish and fish habitat. The Federation of Canadian Municipalities welcomed Minister Ashfield's announcement:

These reforms will make it easier for governments —

— and of course the municipal governments are very involved in this —

— to set clear, sensible priorities for protecting fish habitats. Currently the Fisheries Act applies the same protections to rivers and streams as municipal drains and farmers' irrigation canals. That doesn't make sense.

Therefore, before the honourable senator runs around assuming things about what the budget implementation bill is actually saying about the Fisheries Act, I would suggest to the honourable senator and former ministers Siddon and Fraser that they apprise themselves on what the government is saying and not read some interpretation that is not in any way connected to reality.

**Senator Mitchell:** Given how the honourable leader treats me, I have often wondered how she would treat her friends, but I guess now we know. I am in good company; in fact, I am in the company of Mr. Mulroney.

The leader says that the Fisheries Act now will protect fish and fish habitat, but in fact it will not protect all fish and all fish habitat. As a result of Bill C-38, it will only protect fish habitat and fish as it relates to fish and fish habitat of commercial, recreational and Aboriginal significance.

Honourable senators, who will have the power? Where will the power come from? Who will protect all the other marine life that does not fall under that very limited triumvirate of categories?

**Senator LeBreton:** In that same Department of Fisheries and Oceans there has been a considerable amount of work done on fish science. Just yesterday, the minister made a very important announcement with regard to the invasion of Asian carp into the Great Lakes system.

There are many things that the government is doing, honourable senators, to protect fish and fish habitat. However, I dare say that the act has been in place for a very long time. As it presently exists, it goes way beyond what any government wants to do, and that is to protect fish and fish habitat.

In Eastern Ontario, the Department of Fisheries and Oceans intervened in relation to a Roman Catholic high school being built on a creek that had no water in it. However, apparently a fish habitat was affected. Construction of the school was held up because of a dry creek bed that once or twice a year contains water and in which there may be a fish or two. That is the kind of thing that the government is striving to correct.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting three delayed answers to oral questions posed in the Senate. The first is in response to the question raised by Senator Hervieux-Payette on February 29, 2012, concerning the Canadian Criminal Real Time Identification Services; the second is in response to the question raised by Senator Peterson on March 15, 2012, concerning foreign takeovers of major Canadian corporations; the third is in response to the question raised by Senator Mercer on May 9, 2012, concerning the Canadian Agricultural Adaptation Program.

## PUBLIC SAFETY

### CRIMINAL AND ADMINISTRATIVE RECORDS— PENAL REFORM

*(Response to question raised by Hon. Céline Hervieux-Payette on February 29, 2012)*

Police services from across Canada contribute criminal record information and supporting fingerprints to the Royal Canadian Mounted Police (RCMP) Canadian Criminal Real Time Identification Services (CCRTIS). CCRTIS maintains the National Repository of Criminal Records and ensures that criminal record information is updated. This National Repository currently holds approximately 4.3 million criminal records. Currently, there are approximately 420,000 criminal records in the National Repository that have not been updated with the latest criminal record information. English updates represent approximately 75% of the backlog, whereas the French and/or Bilingual updates represent approximately 25%.

The RCMP can confirm that the estimated processing times for criminal record updates is two to three times longer for French or bilingual criminal records than English criminal



records. The difference in processing times can be attributed to the fact that should a French or English criminal record be updated with a new entry in the "other" language, CCRTIS will automatically translate all previous entries on the criminal record, and maintain this record in a bilingual format (including entering all new entries in both official languages). In addition, a large majority of the French entries are submitted by police services in the province of Quebec, who usually provide charge and disposition information using multiple attachments. They require more time to review and process than submissions that are limited to one document.

Additional personnel have been hired and business processes streamlined to improve service delivery. Predetermined priorities have also been established for updating criminal records:

- In every instance where a new criminal record is created, this is done immediately;
- Requests to provide criminal records for court or parole purposes are completed as soon as possible and prior to the date required for the proceedings; and
- Requests for fingerprint-based criminal record checks for civil screening purposes include a check in the criminal record backlog prior to issuing a product to ensure that the search results are as up-to-date as possible.

The RCMP is redesigning the CCRTIS organizational structure for updating criminal records and all interdependent activities that relate to criminal records management to improve efficiencies for all criminal record and fingerprint identification services, including criminal record updates and language requirements. The RCMP also continues to gain processing efficiencies through the further implementation of the Real Time Identification System, which provides for the electronic submission of fingerprints to the National Repository.

The RCMP is confident that these efforts will assist in reducing the current backlog of criminal record updates.

## INDUSTRY

### FOREIGN CORPORATE TAKEOVERS

*(Response to question raised by Hon. Robert W. Peterson on March 15, 2012)*

The rules governing the net benefit determination under the *Investment Canada Act* are clearly articulated in section 20 of that Act.

The factors assessed to determine whether a foreign acquisition subject to review is likely to be of net benefit to Canada are:

- the degree and significance of participation by Canadians in the Canadian business and in related industries in Canada;
- the effect of the investment on productivity, industrial efficiency, technological development, product innovation and product variety in Canada;
- the effect of the investment on competition within any industry or industries in Canada;
- the compatibility of the investment with national industrial, economic and cultural policies, including industrial, economic and cultural policy objectives enunciated by the government any province likely to be significantly affected by the investment; and
- the contribution of the investment to Canada's ability to compete in world markets.

Budget 2012 reinforces our Government's commitment to an open investment framework that encourages foreign investment in Canada as well as Canadian business investment abroad, while safeguarding Canada's interests.

## AGRICULTURE AND AGRI-FOOD

### CANADIAN AGRICULTURAL ADAPTATION PROGRAM

*(Response to question raised by Hon. Terry M. Mercer on May 9, 2012)*

The Canadian Agricultural Adaptation Program (CAAP) is a 5-year, \$163 million program that was launched in 2009. CAAP will expire as of March 31, 2014.

As part of the Government of Canada's 2012 Budget, Agriculture and Agri-Food Canada (AAFC), along with all other federal departments, carefully reviewed all of its operations and programming to identify efficiencies.

As part of this process, it was decided to consolidate and centralize all program administration to one area within the Department in order to reduce the risk of duplicating project work across regions; to provide greater consistency, monitoring and accountability on selected projects; and to improve access by producers and processors to AAFC services and programs they want and need.

AAFC has a strong regional presence, with an extensive network of regional offices and research centres that work to ensure the Department's programs and initiatives respond to regional needs and are in line with national priorities.

Innovation programming will continue to be important as AAFC works to help the Canadian agricultural sector adapt and remain competitive with investments in new and emerging market opportunities to help build a stronger agriculture industry and Canadian economy.

• (1510)

[English]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Leave having been given to revert to Notices of Motions:

**Hon. W. David Angus:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to Rule 95(3)(a), the Standing Senate Committee on Energy, the Environment and Natural Resources be authorized to sit for two days this summer, on dates to be determined after consultation with the committee members, for the purpose of considering a draft report, even though the Senate may then be adjourned for a period exceeding one week.

[Translation]

## CRIMINAL CODE

### BILL TO AMEND— DECLARATION OF PRIVATE INTEREST

**The Hon. the Speaker:** Honourable senators, I wish to advise you that Senator Massicotte has made a written declaration of private interest regarding Bill C-290, An Act to amend the Criminal Code (sports betting) and, in accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

## ORDERS OF THE DAY

### THE ESTIMATES, 2012-13

#### NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

**Hon. Claude Carignan (Deputy Leader of the Government)** pursuant to notice of May 17, 2012, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2013.

(Motion agreed to.)

[English]

## CRIMINAL CODE CANADA EVIDENCE ACT SECURITY OF INFORMATION ACT

### BILL TO AMEND—SECOND REPORT OF SPECIAL COMMITTEE ON ANTI-TERRORISM— DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Special Senate Committee on Anti-terrorism (Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, with amendments and observations), presented in the Senate on May 16, 2012.

**Hon. Hugh Segal** moved the adoption of the report.

He said: Honourable senators, I am pleased to move the adoption of the report for Bill S-7, which was given consideration at the Special Senate Committee on Anti-terrorism. I would like to thank my co-chair Senator Joyal for his forbearance, support, cooperation and many insights. I also want to thank Senators Frum, Andreychuk, Dallaire, Day, Dagenais, Tkachuk, Smith and Buth for their insightful questions and contributions into the study of the bill now before you.

I would like to thank the clerk of the committee, Jodi Turner, for her dedication, hard work and due diligence, and Lyne Casavant, Holly Porteous and Dominique Valiquet, whose research and support for the technical parts of this bill were of immense value.

Honourable senators, Bill S-7, the combating terrorism act, proposes to re-enact the provisions found in the former Bill C-17 from the last session of Parliament, which focuses on the investigative hearing and the recognizance-with-conditions provisions that sunsetted in 2007. It also responds to recommendations of the parliamentary review of the Anti-terrorism Act, which took place between 2004 and 2007, and includes additional improvements to the Criminal Code, the Canada Evidence Act and the Security of Information Act. New criminal offences dealing with travelling abroad in support of criminal terrorist activities are also created by this bill.

The Senate Special Committee on Anti-terrorism examined the bill and is now reporting it back to this chamber with two amendments, which were agreed to unanimously by members of the committee.

The amendment to clause 10, thanks to the insights of Senator Day, has to do with the role of the judge in the recognizance hearing process. It deals with proposed subsection 83.3(13) of bill, which addresses the power to vary conditions imposed in recognizance with conditions. Subsection 83.3 appeared to limit that power to vary the conditions to only the same judge who imposed them. The amendment proposed that it would be that judge or another judge of the same court who may vary the conditions. This is consistent with similar provisions throughout the Criminal Code.



Therefore, honourable senators, the first amendment is as follows:

1. Clause 10, page 10: Replace line 36 with the following:

(13) The judge, or any other judge of the same court, may, on application . . .

In clause 12, thanks again to Senator Day, it was noted that the English and French versions did not equate and that while the English had the right understanding that this was a mandatory review, the French version did not. The word "doit" had been replaced in the French version with "peut." The proposal is that clause 12 be amended by replacing, in the French version, line 27, on page 11 with the following:

2. Clause 12, page 11:

(a) Replace, in the French version, line 27 as follows:

"83.28, 83.29, 83.3, et de leur application doit"; and

(b) Replace, in the French version, line 31 with the following:

"cas, désigne ou constitue à cette fin."

The committee also made certain observations, which I commend to all members to review as their time permits. Let me reference just two.

The committee believes that the new offences created by this bill will allow law enforcement and intelligence officials to accomplish the important goal of protecting Canadians. However, we only believe this is possible if there are real agreements with respect to protocols of operation between the various agencies, border protection, the police, the RCMP, the local police forces responsible for the airports, CSIS and the rest, and we made a recommendation in our observations that that matter be addressed fully.

Another observation I would like to put on the record, honourable senators, relates to the protection of the rights of youth. Much of what is being discussed in the bill relates, in terms of new crimes created under the Criminal Code, to the movement of people back and forth to countries that may, by their very definition, be movements in support of terrorist activity.

In fact, our Danish allies just today arrested young people going back and forth from Somalia into Denmark with express plans for terrorist activities, and, by acting in a proactive fashion, they have prevented something terrible from happening in our ally's territory.

That being said, our committee took a strong view that as Bill S-7 is law of general application, it will therefore apply to both adults and young persons under the age of 18. We pointed out that in Canadian criminal proceedings, the Youth Criminal Justice Act applies to protect the rights of individuals between the ages of 12 and 18 who become involved in the criminal justice system.

Some witnesses are of the view that Bill S-7 should include specific provisions that would outline how the bill applies to persons under 18 to ensure that it complies with Canada's obligations under the Convention on the Rights of the Child and other international instruments. The committee recognizes that the YCJA applies to the provisions contained in Bill S-7, as confirmed by the Supreme Court of Canada in *Regina v. R.C.* In that case the court stated that any Criminal Code proceedings involving a young person should be conducted in light of the principles of the YCJA. In accordance with the views of certain witnesses and members of the committee, the committee endorses a detailed analysis of the bill's provisions by the Department of Justice to ensure they are interpreted in accordance with YCJA principles, as well as Canada's international obligations regarding the rights of young persons.

Honourable senators, I commend this bill to your early and constructive consideration.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Joseph A. Day:** Perhaps for the record, honourable senators, we adopt the report of the honourable senator. It explains well the work we did. This is an important piece of legislation that balances fundamental rights and the state's tools needed to combat terrorism. We must watch this type of legislation closely. In the normal circumstance, we would determine this seems to be going further than we would like to see legislation go in intruding on individual rights.

• (1520)

The honourable senator has explained the report clearly. It is reflective of the deliberations that we had at the hearing, and I suggest that we will be supporting this report.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I know that the committee has done excellent work with this and is supportive of the amendments and observations that have gone forward, but it is my understanding that Senator Dallaire wanted to say a few words, so I will take the adjournment in Senator Dallaire's name.

(On motion of Senator Tardif, for Senator Dallaire, debate adjourned.)

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FIRST REPORT OF COMMITTEE— CONSIDERATION IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole on the consideration of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Revised Rules of the Senate*), presented in the Senate on November 16, 2011.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Donald H. Oliver in the chair.)

[Translation]

**The Chair:** Honourable senators, the Senate is resolved into a Committee of the Whole to consider the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament, pursuant to the order adopted by the Senate on May 17.

The pages can give you copies of the *Journals*, which contain the report.

The business of this Committee of the Whole shall be conducted according to the following schedule:

During the initial period of the meeting, for a maximum of one hour, the senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes' speaking time allowed under rule 84(1)(b).

My understanding is that upon completion of consultations, honourable senators Carignan, Fraser and Stratton will be available to answer questions from the honourable senators.

During the second portion of the meeting, the committee shall consider chapters one, two, three and four of Appendix I of the report for a maximum of one additional hour.

Honourable senators, rule 83 states that:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it agreed, honourable senators, that rule 83 be waived?

**Hon. Senators:** Agreed.

**The Chair:** Senators Fraser, Stratton and Carignan, I invite you to make your introductory remarks.

[English]

**Senator Cools:** Mr. Chair, I would like to ask a question first. I notice that the reference calls for representatives of the committee, and I notice you have just made reference to particular members of the committee, being Senators Fraser, Carignan and Stratton. I wonder if you could explain to us what a "representative" of a committee is and how a representative is chosen to be a representative.

**The Chair:** A representative is a member of the committee and I presume the three people called are members of that committee.

**Senator Cools:** Mr. Chair, I am interested in knowing how they were chosen to represent the committee. The reason I ask is because we are quite unused to the process that is unfolding

before us. It is our habit and our expectation that the chairman of a committee usually sponsors and squires the reports of their committees through the chamber. This is a most unusual event to the extent that the committee's chairman, who is the voice of the committee, so to speak, is not performing those functions. I wonder why that is and how that business of sponsoring has been transferred to other persons now called "representatives."

**The Chair:** Senator Cools, I think those are great questions. It seems to me that one of the things that the three honourable senators first want to do is give a brief exposition of the position of the rules and, second, they are open and available for questions from all honourable senators. I think those would be good questions to put to the three senators.

Senator Fraser, you have the floor.

**Honourable Joan Fraser, Senator, The Senate of Canada:** Honourable senators, it is a rather daunting privilege to appear before you in this way.

To answer Senator Cools' question, the three of us were asked to represent the Rules Committee because we constitute the subcommittee of the Rules Committee that did the final work on this proposal to rewrite the *Rules of the Senate*. The members of the committee, the chair and the deputy chair of the committee in particular, asked us, therefore, to represent the whole committee here today.

[Translation]

I would like to point out that the report before you is the result of many years of work, which began approximately 13 or 14 years ago, under the direction of Senator Molgat. In that time, I cannot say how many senators have worked on this project; I do not wish to name them for fear of forgetting someone. It was a tremendous amount of work carried out by many senators.

As I indicated, the subcommittee consisted of myself and Senators Carignan and Stratton, who will address you in a moment.

[English]

I wish to pay homage to Senators Carignan and Stratton who worked incredibly hard on this report, and I would also like to utter profound thanks to the table officers — I think in the end all of them were involved — who did so much to help us as we moved forward.

I want to stress that what honourable senators see is the product of a rule of consensus. There was nothing in this report that we did not have consensus on. If we did not achieve consensus, it did not go into the report.

The goal of this report, of the work we did that produced this report, is to make the *Rules of Senate* clearer and more user friendly. The object was not to change the substance of the rules, except in a few specific circumstances. For example, where changes were necessary, according to law or the Constitution. For example, the Constitution says that votes in the Senate are won or lost by



majority vote. Our rules say at the moment that in order to rescind a vote that has happened in the same session, one needs a two-thirds majority. That is not according to the Constitution, so we would propose to adjust our rules to reflect the Constitution.

We proposed substantive changes where upon examination it became apparent that our rules, as they now stand, are internally contradictory. All senators, I think, are familiar, for example, with the thorny way in which we have tried to address the contradictions in present rules on questions of privilege.

• (1530)

We proposed changes where there was an obvious omission — glaringly obvious and not controversial.

[Translation]

For example, nowhere in the existing Rules does it state that the Speaker must preside over Senate sittings. The Rules refer to the fact that the Speaker *pro tempore* or even other senators can sometimes preside over Senate sittings. We thought it was a good idea to mention the fact that it is the Speaker himself who presides.

[English]

Finally, where there is clear and established, settled practice in the Senate, and where it seemed appropriate to adjust the rules to reflect that practice, we have done so. For example, the rules say that written questions will appear in the Orders of the Day, I think it is, every day. However, for 30 years, following a report from the Internal Economy Committee, it has been our practice to publish them only once a week after the first publication. The proposed report would reflect that practice.

To make the rules clearer, we did several things. Honourable senators will have observed that we proposed a rather different format. The page size is different, apparently much cheaper to print. We have done a significant amount of work to regroup the rules so that rules on a single topic, to the extent that is humanly possible, appear together. For example, proposed new rule 2-1, which concerns the duties of the Speaker, takes items from the present rules 18, 43 and 60, which seemed logically grouped together in a single rule.

Honourable senators will note the new numbering system that we would propose. Like the present rules, the new report proposes grouping the rules into chapters, but we propose renumbering the rules to reflect the chapter in which they appear, so that, for example, anyone who looks at rule 9-3 will know that it is in Chapter Nine, and it appears as rule 3 in Chapter Nine.

We have done as much work as we could to ensure that the marginal notes are accurate reflections of the rules to which they refer, and the table of contents includes all those notes, subheadings and marginal notes. We believe it is much clearer. It is, in a sense, a mini index, as it is now proposed.

Finally, we have taken out from the body of the rules the series of definitions that now occur and would propose to append to the rules an appendix that would be a greatly expanded series of definitions, an appendix on terminology.

[ Senator Fraser ]

We believe that the language in the proposed report is much clearer than in the present rules. I will give one example. The phrase “the Senate’s customs, usages, forms and proceedings” would be reasonably replaced, we suggest, with the phrase “the Senate’s practices.”

[Translation]

We worked hard, particularly Senator Carignan who worked very hard to improve the French version of our Rules. Honourable senators are aware that, for now, the French version is essentially a translation — one that is often inaccurate — of the English version. There are even some places where the French and English versions of the same rule contradict each other. So, we really wanted to write the French version of the Rules in French, in accordance with parliamentary practice.

**Senator Losier-Cool:** Hear, hear!

**Senator Fraser:** You will also see an innovation that will be useful for Senators.

[English]

When there are exceptions elsewhere in the rules to any particular rule, those exceptions are listed immediately following the first rule and they are signalled by the introductory phrase “except where otherwise provided.”

We have also provided, where appropriate, legal references. For example, if a given rule is based on the Constitution Act, 1867 or on the Parliament of Canada Act, we have included that legal reference so that senators may know where to go to get the reference.

[Translation]

**Honourable Claude Carignan, Senator, The Senate of Canada:** Clearly, this was a fairly big job. As Senator Fraser said earlier, many teams have worked on the Rules over a period of approximately 12 years, so we did have a significant amount of material to get us started.

In subcommittee, we also worked with Senator Carstairs until she retired.

Most of the work involved trying to make the two versions as intelligible and understandable as possible. We tried to abide by the primary definition of a rule. A rule is a standard that is general and impersonal and that is supposed to be intelligible. I thought about this when I read the Rules for the first time. If I, as a lawyer, had a hard time understanding certain passages, then it is probably because there is a problem with the way those passages are written. In a number of places, we realized that the way the text is written, the double exceptions and the stilted French translations have made the Rules, particularly in the French version, very difficult to understand. There are even provisions that contradict each other. We therefore tried to draft the French Rules in French while staying as true as possible to the existing rules and practices, except for the few exceptions that were mentioned by Senator Fraser and that are included in the report.

Senator Stratton also gave his point of view on certain parts, even on the French language. The teamwork that was done was very much appreciated. I think the *Rules of the Senate* are now much easier to use and understand. The text is now more logical.

I would like to give an example of the kind of revisions that were made. Consider the new subsection 2-5(2), which has to do with the explanation of rulings. It now reads:

In ruling on a point of order or a question of privilege, the Speaker shall give the reasons for the ruling and cite any rules, practices or authorities on which the ruling is based.

This section replaces two sections: the former 18(2) and 43(12), which were in completely different sections of the old text. I think those sections were written in a strange manner. Rule 18(2) reads as follows:

The Speaker shall decide points of order and when so doing shall state the reasons for the decision together with references to the rule or other written authority applicable to the case.

Rule 43(12) states:

The Speaker shall determine whether a *prima facie* case of privilege has been made out. In making a ruling, the Speaker shall state the reasons for that ruling, together with references to any rule or other written authority relevant to the case.

I need not point out that the wording was much more complex. The main idea of the rule became clear after a little effort, both in English and in French, and then the idea was simplified and worded as clearly as possible.

Personally, as Deputy Leader, I am already using the new version, which sometimes makes it easier to understand certain passages of the *Rules of the Senate*. This simply illustrates that it is already a very useful tool. I hope all honourable senators will find it as useful as I do.

• (1540)

I would of course like to thank the members of the committee, and particularly Senator Fraser, an expert writer with an excellent command of both official languages, which enabled us to clearly express our ideas on several occasions. I wish to thank her for her outstanding contribution. Thank you to everyone.

[English]

**Honourable Terry Stratton, Senator, Senate of Canada:** My role in this whole affair was more or less to be the wagon master to ensure we kept this thing moving along, and that was a critical element, as far as I was concerned. We have been using this set of rules since 1991, and it got more and more frustrating when I was playing the role of the whip, in both opposition and government, and as deputy leader for a year in opposition. The rules needed to be dealt with. I was determined that it needed to be done, as a matter of fact, in order for all senators to understand, not just a few who knew the ins and outs of the existing code. It is more

important for everyone in this chamber to understand what these rules are about. The reorganization that has been done is quite exceptional.

When His Honour, Senator Kinsella, first recommended that we have this Committee of the Whole, I was a little chagrined, and then I realized that this was a different era than 1991 when that set of rules was adopted. This is the 21st century, so we have to be democratic about it. We have insisted, when we have been dealing with this in the subcommittee and in the Rules Committee, that we had to deal with it in a democratic fashion. I think Senator Kinsella was bang on when he suggested that we do this. I think it will help everyone to understand and comprehend just what this means and the impact it will have in the future.

I would like to thank Senator Kinsella for this recommendation.

What got me more than anything was the question of privilege issue that I was personally involved with twice, once on a written question of privilege and, then, quite a short time later, having to go and actually find another alternative on another question of privilege, which was in an entirely different section of the rules. When you think about it, it is pretty ludicrous.

I highly recommend the adoption of this new set of rules. An incredible amount of work has been done by all who have been involved over the years, not just these three sitting here. We represent those who have worked on this before. To all those, thank you; in particular, the chair, who, as honourable senators know, is the former editor of the *Montreal Gazette*; and, of course, Senator Carignan, who is a lawyer and a francophone in the truest sense, who worked hard to ensure that we had the French language properly written. That was essential. I want to thank all those who have participated.

**The Chair:** Honourable senators, the floor is now open for all honourable senators to pose questions or ask questions of the three presenters. If you would indicate to the chair, the table officer will take your name down and I will call you in order.

**Senator Cools:** Thank you, Mr. Chair.

I would like to begin by thanking the three members of the subcommittee for all their work. Toil is a worthwhile thing and a good thing, but we all have a duty to judge the work by the quality and the righteousness of the work rather than the fact that it was done. I admire labour and industry. My mother was Methodist, so you can understand my preoccupation.

I was hoping that our three colleagues would have answered the question as to what a representative of a committee is and how come the chairman, who should be sponsoring this matter through the house, seems to have disappeared from the proceedings. I was hoping that question would be addressed, because this is the first time in my career that I have seen a chairman reluctant or disinclined to carry his product through the house.

I would like to come to a few important issues, colleagues. I notice that the committee representatives have thanked the staff of the committee and all those who have contributed. However, I did not hear mention of any involvement of the law clerk's office



in the drafting of these rules. I wonder if I could find out whether or not the law clerk's office was involved in the drafting of the rules.

I will tell you why, colleagues. One of the things that has been created here — and there are numerous things — is what I would call the “enumeration” of the rules themselves. The change that is proposed here is an extremely unusual style for enumeration. I have looked through statutes trying to find an equivalent. I have found one, but not in any statute. I will come to that.

I find it difficult to pronounce them, the enumerations. For example, I would have called the first rule “1 hyphen 1” instead of the enumeration following the usual practice, which would be usually single numbers, perhaps followed by a period, then single numbers again, then bracketed numbers, and on by bracketed a's. This enumeration is a novel creature. I have never heard in my parliamentary career of a rule referred to a “1 hyphen 1(1).”

Maybe few senators have taken note of this, and perhaps I can put two questions. What was the thinking behind this revolutionary style of numbering? It is even clumsy to use. One has to say either “1 hyphen 1,” rather than “1 sub 1,” because this is a hyphen. We must remember that whereas in enumeration, in the process of drafting, commas and full stops usually have significance, but I do not know what hyphens and dashes mean.

Maybe Senator Carignan, who is one of the lawyers involved, could explain. First, were the legalists from the law clerk's office involved in this at all and consulted on this enumeration? This is totally novel.

Second, why did anyone feel a need to change a system of numbering that has been with us for over 100 years? If there was an urgent need to do it, I would be happy to be convinced, but it begs the question as to what is involved here. I do not think anything is clarified when an entirely new numbering system is invoked that can hardly be pronounced or uttered or articulated. I am listening.

**The Chair:** The Honourable Senator Cools has asked two questions: Was the law clerk's office involved in the drafting, and what is this new system of numbering? Perhaps the honourable senator could take the two questions in order.

**Senator Fraser:** The law clerk was involved when we were considering matters of actual law. We did consult the law clerk's office. One that comes to mind, for example, had to do with the way the rules are phrased in connection with petitions for private bills. However, the *Rules of the Senate* are the *Rules of the Senate*. They are not statute law. We believed it was not necessary to have a representative of the law clerk with us at all times as we considered every element of the rules.

• (1550)

We believed it would be a helpful change to provide this kind of numeration because, as I suggested a few moments ago, it would at least provide a guide as to where to go in the rule book to find a given rule. I do not think that saying “rule 11(1)” is any

more peculiar than saying “notwithstanding rule 58(1)(h),” which I believe the Deputy Leader of the Government says just about every day. I do not think it is any more complicated. The idea was to assist senators. If senators do not find it of assistance, then do not do it.

[Translation]

**Senator Carignan:** As a supplementary answer to the question on numbering, we tried to use a numbering system that is logical and will allow senators to find a subject quickly without necessarily using the index.

Often in the Rules we had to try to find the key word in the index. We had to consult five or six rules or sections that might have to do with a particular subject. We grouped the subjects into chapters, so now when we want to know about the voting procedure, we know that we have to go to Chapter Nine.

Everything having to do with a vote is in Chapter Nine. There is a logical order to the information and the provisions relating to the vote and its conditions.

We know that everything having to do with the Speaker and the decorum of the Speaker's role is in Chapter Two. We refer to the table of contents and go directly to Chapter Two.

The idea was to be able to find a subject quickly, especially because questions about the Rules are often raised during a meeting. This new approach allows senators to get to the subjects more directly, to intervene and participate in the debates, which was not necessarily the case before.

When it came to the Rules, people would get lost in the index and dared not intervene because they were unable to find the relevant sections. And when they found them, they were not sure whether there might be another section somewhere that said the opposite or complemented the point.

If a question about the Rules has to do with voting, everything is in Chapter Nine. Chapter Nine is arranged logically so we can get the answers to our questions and then make our arguments.

[English]

**Senator Stratton:** Referring back to the legality issue, Mr. Sebastien Spano, who is a lawyer with the Library of Parliament, sat with us every day and ensured that we complied. As well, Mr. Michel Patrice, a lawyer with the Senate, has reviewed this document. We have had sufficient backing on the legal side to carry this forward.

**Senator Cools:** I knew Senator Molgat very well and I sat in the Liberal caucus with him for many years. I would like honourable senators to know that right up to 2004, there was no Liberal Leader of the Government in the Senate who was going to tolerate any rule changes. We should get the record straight on the Liberal wishes at the time.

I have been trying to find out for quite some time the source of these rules. The only thing I am ever told is that it began during Senator Molgat's time. I was very familiar with Senator Molgat's

interest in good and fair translations from English into French and vice versa. However, honourable senators, anything to do with rule changes, such as a comprehensive overhaul, never came to the Liberal caucus and I rarely missed a meeting.

Honourable senators should know some of the background to some of these at some other point in time. The bitterness after the GST debate was so profound that there was a great sense of bringing peace and harmony. In addition, the Liberals were in a minority position and the Conservatives in a majority position. Remember: the Liberals did not vote for these rules in 1991, and I was among them. I can also tell honourable senators that they would have tolerated no hint, suggestion, motion or anything in that way to change the rules. This is a very new development.

**The Chair:** I remind the honourable senator that her 10 minutes for questioning has expired. Do other honourable senators wish to intervene?

**Senator Fraser:** For the sake of the record, may I say briefly that a first draft of this complete revision of the rules was begun under Senator Molgat acting as Speaker of the Senate, not acting as a Liberal. Senator Hays, when he became Speaker of the Senate, presented a draft complete rewriting of the rules to the Rules Committee but not to the caucus of either party, as I understand it.

**The Chair:** Do other honourable senators wish to pose questions to the three senators on the subcommittee?

**Senator Kinsella:** Could the honourable senators explicate the difference between what is proposed in rule 1-2 and the existing rule 2. As I was reading it, what we are proposing relates to privilege.

**Senator Fraser:** Yes.

**Senator Kinsella:** Proposed rule 1-2 states:

These Rules shall not limit the Senate in the exercise and preservation of its powers, privileges and immunities.

Rule 2 states:

Except so far as is expressly provided, these rules shall in no way restrict the mode in which the Senate may exercise and uphold its powers, privileges and immunities.

Would the honourable senator explain the rationale for making that change? The existing rule makes it clear that the Senate can make rules, "Except so far as is expressly provided, these rules shall in no way restrict . . ."

**Senator Fraser:** "Except so far as is expressly provided" is gone in large measure because we have taken that phrase in the proposed new version to be a signal that there will be exceptions and it will be followed immediately by a list of the exceptions.

In terms of the substantive difference, I would submit that it is not great. In fact, I do not think there is any substantive difference. To say that the Senate will not be limited by these rules in the exercise and preservation of its powers, privileges and immunities is, to my way of thinking, a more concise way of saying that the Senate shall not be restricted in the mode in which it may "exercise and uphold," as distinct from "preserve."

I admire the honourable senator's dedication to fine detail, but I would suggest that we do not really have a difference of substance.

[Translation]

**Senator Carignan:** The current version of Rule 2 states "Except so far as is expressly provided, these rules shall in no way restrict the mode in which the Senate may exercise and uphold its powers, privileges and immunities."

It says, "Except so far as is expressly provided," which suggests that in some instances the Rules might restrict the privilege of a senator. However, the privilege stems from legislation and a rule cannot restrict legislation. That is why we expressed 1-2 as a form of interpretation, "These Rules shall not limit the Senate in the exercise and preservation of its powers, privileges and immunities." And it was not necessary to say "except as provided in the Rule," because a rule cannot contradict the law.

• (1600)

**Senator Kinsella:** I would like to ask Senator Carignan a supplementary question.

In the revised version of the French Rules, Rule 1-1(2) uses the wording "Dans les cas non prévus" whereas the existing version uses the wording "Dans tous les cas non prévus."

Can you tell me the difference between these two phrases?

**Senator Carignan:** It is often just a matter of semantics. The phrase "Dans les cas non prévus" implies all cases not provided for.

This is a good example of poorly written text because one instance implies that we are referring to all cases not provided for while the other implies that we are referring to just certain cases. Since "Dans les cas non prévus" is used in some places and "Dans tous les cas non prévus" is used in others, we assume there must be a difference between the two and we start looking for differences that do not exist. The different wording merely reflects the fact that the text is poorly written. We tried to make the text more consistent. You have just pointed out a good example of what we did. There is no difference between "Dans les cas non prévus" and "Dans tous les cas non prévus." It is just a matter of writing more clearly.

[English]

**Senator Kinsella:** Chair, do I have time to ask a second question?

**The Chair:** Yes.

**Senator Kinsella:** It is relative to revised text 1-1(1), primacy of rules, and our current version 1(2). The current rule 1(2) provides that:

The *Rules of the Senate* shall in all cases be interpreted as having priority over any practice, custom or usage described in any of the appendices to the rules. Any conflict between the appendices and the rules shall be resolved by reference to the rules alone.



In the revised version, rule 1-1(1) provides that:

The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice and the appendices to these Rules.

Currently, rule 1(1), says:

In all cases not provided for in these rules, the customs, usages, forms and proceedings of either house of Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.

It is the word "committee."

The proposed rule 1-1(2) says:

In any case not provided for in these Rules, the practices of the Senate, its committees and the House of Commons . . .

Could you explain what your thinking was? Is my reading of that correct? If some practice has been developed in some standing committee and if the rules are not dealing with an issue, can an honourable senator get up and say "Well, in our committee on whatever, this is how we operate," and that will become instructive to the chamber?

**Senator Fraser:** No, honourable senators. This comes back to the, shall we say, vigorous discussion we had about whether or not to preserve the phrase *mutatis mutandis*. We have, instead, used the phrase "with such modifications as the circumstances require," which we believed to have the same meaning in English as the shorter, familiar Latin phrase, *mutatis mutandis*. If you put *mutatis mutandis* back in, I think it would be quite clear. I believe that, even as now formulated, it is clear that the long-standing practice in a committee, where the rules are silent, shall be followed in committees. However, there was certainly no intention at all of suggesting that committees could tell the chamber how to function. That was why the phrase "with such modifications as the circumstances require" was used. The idea was to say that chamber practices are relevant to the chamber. Committee practices are relevant to committees. House of Commons practices may be relevant, with some adjustments as the circumstances require. Indeed, other equivalent bodies may also have practices that are relevant to us, or they may not. As Senator Kinsella knows better than any of us, Speakers' rulings often refer to the practices of other legislative chambers or bodies. That is in there to reflect what has been done, for many decades, in Speakers' rulings.

[Translation]

**Senator Joyal:** First, I would like to make a comment and then I would like to ask the committee members a question. Those of us who use the French version of the Rules have certainly noticed that most of the French version is a literal translation of the English. The English syntax was followed in the French translation, which quite often makes it difficult to understand. Often, you have to refer to the English version to be able to understand the meaning of the French.

[ Senator Kinsella ]

As the committee was making changes, did it take French syntax into account to provide us with a version that is as clear as possible in French? Am I expressing myself clearly enough to be understood?

**Senator Carignan:** Yes, absolutely. And that is what the committee did. The purpose was, first of all, to identify the idea behind the rule, agree on that in English and French, and then draft the rule in both languages.

The funny thing was that, once we came up with the best possible French wording, we sometimes translated the rule from French into English to better express the meaning of the rule. But what it boils down to is that you are right and, as you can see from reading the rules, the French rule was conceived in French and the English rule in English.

**Senator Joyal:** The reason I ask, honourable senators, as I am sure you will have no trouble understanding, is that back when the rules were written, the Justice Department did not have the parallel approach to drafting in English and in French that it does now. The rules were formulated in English and translated into French. While the translation was equally valid, it did not make quite the same impression as the original.

It has always seemed to me that the purpose of revising the rules was essentially to work backwards and get to the heart of the message underlying each rule in both languages so that a francophone reading in French would immediately have the same understanding of the text as an anglophone reading in English and not have to muddle through sentences that are much clumsier in one language than in the other.

As I mentioned just now, the first few times I read the rules in French, I had to refer to the English version to understand what the French meant, to be sure that I had correctly understood the French wording. As you were working through the rules, did you consult linguists or resource people who might have suggested a way to formulate the rules in order to achieve the desirable goal I have described?

• (1610)

**Senator Carignan:** Yes, we heard from experts, particularly experts in linguistics, who were asked to propose a draft in French or English, depending on the case, that corresponded most to our idea. Sometimes we had to reject their suggestion, for instance, because they had a tendency on occasion to use words from France, which did not take into account the British parliamentary system. We therefore sometimes had to refuse the suggested French version, which we did because it came from French-language dictionaries from France, translating a French legislative tradition, failing to take into account our British traditions. So, we did have the occasional conflict regarding how it was drafted.

I can tell you that the terms used in Quebec legislation were very helpful when it came time to select the most appropriate word.

**Senator Joyal:** Can you give us an example?

**Senator Carignan:** I am looking for one; I know it happened.

**Senator Joyal:** I am not trying to put you on the spot, senator; I understand very clearly what you are saying.

**Senator Fraser:** I have one that we discussed at length. You will note that, in the report, we used the French word “comité” when talking about standing Senate committees. In France and even in Quebec, the word used would be “commission.” However, after considerable discussion, we concluded that it would be useful to maintain the distinction between a committee and a commission, as we have always done in the federal government, because a commission of inquiry, a royal commission or anything like that is not at all the same thing as a parliamentary committee.

**Senator Joyal:** Of course.

**Senator Fraser:** So, in this case we decided to look at the tradition in the federal Parliament, even though the expert really wanted everything to be called a “commission.”

**Senator Joyal:** Indeed, in Quebec, they use the expression “parliamentary commission rather than “committee.”

**Senator Fraser:** And sometimes members of the public, and even the media, are confused between the various types of commissions proposed to deal with issues.

**Senator Joyal:** So, I can conclude, based on what you are proposing, that the French has been “standardized” based on a similar approach to the one used at the Department of Justice for the drafting of bills.

**Senator Fraser:** Precisely.

**Senator Joyal:** Thank you.

**Senator Comeau:** Honourable senators, I too would like to congratulate you for the attention paid to put the French language on an equal footing with the English language. I myself, when I have to look at the Rules, refer to the English version. Indeed, I have sometime been very frustrated with the way the French version was drafted. It is very frustrating for a francophone to have to refer to the English version when looking at the Rules. I congratulate you for ensuring that the linguistic equality of our two official languages is respected. Thank you very much for doing that.

[English]

**Senator D. Smith:** First, a brief comment on the issue which was raised as to why I, Chair of the Rules Committee, was not on this panel. I would like to point out that I was not on the subcommittee that did the review. It was chaired by Senator Fraser and countless hours were put in to that process. It seemed appropriate that those who did the heavy lifting and the grunt work should be here to give the most thorough possible answers as to any of the changes that are in there. That is the situation there.

I have two questions. First, it would be helpful if you could enlarge a bit on what I refer to as the “consensus culture.” In the Rules Committee as a whole we avoid partisanship and try to do the right thing for the institution. On this, we had consensus on

both sides, with both government members and opposition members. We were just not going down that road, whether it be one side outvoted by the other or something else. When it came to the subcommittee, you would literally have unity because it would be two to one. Actually, we had unity in the committee as a whole when the report came back and was adopted and tabled in November. It has taken a long time to get from November to today, but maybe you could comment on that.

Second, there was some reference to changes made in the early 1990s and the position of the parties, and it did not seem to connect with my recollection. If the honourable senator has his research there, could he clarify what did happen then?

**Senator Stratton:** If I may answer this one. I have never sat on a committee or subcommittee — and I have sat on a few subcommittees — that worked as well as this one has over the time frame. It was quite a while. They were long, intensive hours. Mondays for the entire day were a fairly regular occurrence.

It was remarkable in the fact that we used consensus. The definition of “consensus” is not unanimity. It is called consensus, a give and take. On some issues I would take a certain position and Senator Fraser would feel another way, and vice versa. We would come to a compromise to ensure the entire project moved forward. It was remarkable and frustrating for senators at times who had to yield to their point, but we accepted that this was the appropriate way to go. That really is the background. Completely all the way through this, it was by consensus.

When we tabled the document in the Rules Committee and reviewed the document, the same thing occurred. It was by consensus that the committee approved the report and brought it to the chamber, and that, in itself, was quite remarkable.

With respect to the issue of the background of this, the rules were brought forward in 1991 and were adopted after a very short period of time. I do not care to give the summary right now, but if I may seek leave at the end of this whole session — not just today, but at the completion of it — I will give some of the history.

Essentially, in 1991, after the GST debate, indeed, things were rather terse and tough, and the rules were adopted on a standing vote, and they were put into effect the day after the vote occurred. It went like this: Here is the report and the committee reported the new rules. The rules were debated over one day, voted on, passed and adopted the next day.

We are proposing that these rules take effect in the fall, not to give us the time to adapt but rather to give the administration time to adapt and to look at how this would work and will work in their whole process. It was important to recognize that. That is really the brief history in a nutshell of how the revision to the rules of 1991 took place.

**Senator Fraser:** We have insisted on the degree to which we operated on consensus because it was a remarkable feature of the work. I would like to go further on that and say that what was really quite amazing about the consensus is that it was always a consensus in the service, as Senator Smith suggested, of the institution.



• (1620)

I do not recall a single case where the disagreements we had were in the slightest way partisan. They were based upon experience among members of the subcommittee — both in government and in opposition — and a true belief that the rules must serve the institution and all senators on all sides, including independent senators.

I think I have not ever had such a prolonged experience in this place of that nature, and it was a great privilege.

[Translation]

**Senator Robichaud:** I notice that the existing rule 1(3) talks about grammatical “gender,” but I do not see it in the version you are proposing. Perhaps it appears later on, because we use the masculine form in French to refer to “a senator” and “the Speaker.” Is that part of the rules an obsolete form that was deemed unnecessary in the new rules?

**Senator Fraser:** When you refer to section 1(3) in the rules, you are alluding to the current version of the rules, as they refer to gender.

[English]

In English we say “masculine, marked genders.” If I may answer in English, Senator Robichaud, even francophones had trouble actually understanding the grammatical paragraph that is in the present rules about marked genders.

[Translation]

“Marked” and “unmarked” genders: it seems the only people who could understand this were the interpreters. They were very pleased to learn why it was done that way. However, we found that it was not worth putting something that no one understood into the rules, particularly since we had agreed that it would be useful to include all the definitions in Appendix 1, Terminology. If you look at our report, we point out at the very beginning of this appendix that:

In the French version, the masculine gender is used throughout, without any intent to discriminate but solely to make the text easier to read.

That seemed to us to be the core of the issue and we are leaving it to grammar experts to debate the “marked” and “unmarked” genders.

**Senator Robichaud:** I thank you for your answer. It is just that I had not made it to the appendixes. You are saying we did not understand, but I thought it was quite clear.

**Senator Fraser:** For you. Surely, you are more of an expert than I am.

**Senator Robichaud:** I do not believe that it is a question of expertise because the masculine forms “le sénateur” and “le président” are everywhere in the French version of the

Rules. To understand that these terms apply to both genders, you must refer to the Appendix. In the current Rules, the explanation is found at the very beginning which, I believe, made it clear that the masculine term applied to both genders. Thank you.

**Senator Fraser:** That is true. However, Senator Carignan may perhaps also wish to comment on this matter. I have to say that I was definitely influenced by my experience on the Standing Senate Committee on Legal and Constitutional Affairs. There is no mention at the beginning of each bill that the masculine applies to both genders. It is assumed. It may be a certain professional habit.

**Senator Carignan:** I agree. The rules apply to both genders, even though only the masculine is used. It does not apply to just male senators

**Senator Robichaud:** I realize that. Had you wanted to do that, there would have been an uproar in the chamber and I would have supported those who opposed it. I completely understand what you did.

[English]

**The Chair:** Honourable senators, there being no other senators on my list, we have two minutes to go in this hour under the order the Senate that says we have 60 minutes for this.

**Senator Cools:** I have two very quick questions. The first has to do with the devotion expressed by the members of the subcommittee and their obvious success in fraternal relations. I just wondered, since they were so successful in those relations, why did they not come to the house for a reference to do a full scale study involving the whole Rules Committee, with the power to travel, if necessary, on these rules?

The second question speaks to with the order of reference itself. As honourable senators would know, it is that portion of the motion which states the purpose for which the committee is appointed. In other words, it is that part which specifies the purpose of the committee.

I wonder if Senator Carignan could answer why his motion — which set out the order of reference — did not specify the purpose for this Committee of the Whole study. Why was it excluded? As honourable senators know, the purpose was to investigate or study whether the mandate provided under 86(1)(d)(i) of the committee extended to subcommittees in respect of studying and revising our rules. As we know, the rules are the mechanics which actuate our privileges.

I am sure the successes my honourable friend speaks about are to be commended, but I must tell honourable senators that I have attended many Rules Committee meetings and have never been greeted by anything I would consider warm or friendly feelings. As a matter of fact, I have never noticed the situation that is being described, but perhaps my absence creates that cosiness.

**The Chair:** Honourable senators, the hour available under the order of the Senate to ask questions has expired, but with the leave of honourable senators, I would ask that the three witnesses have a brief opportunity to respond to the recent question from Senator Cools. Is that agreed, honourable senators?

[ Senator Fraser ]

**Hon. Senators:** Agreed.

[Translation]

**Senator Carignan:** We are in Committee of the Whole because the Speaker's ruling clearly states that we must or that we can study the Rules. The Speaker's ruling was quick and clear, and established that we can review the Rules.

As for the warm welcome, I do not know what things were like before, but I must say that the Rules Committee works well together.

[English]

**The Chair:** Thank you very much.

Honourable senators, it now remains for me, on behalf of all honourable senators, to thank our three honourable senators for the excellence of their presentation to outline what took place in the drafting and redrafting of these rules. I would like to say thank you very much to Senators Fraser, Stratton and Carignan.

[Translation]

Second portion: Honourable senators, I would like to remind you that, pursuant to the order adopted by the Senate, we have a maximum of one hour to consider Chapters one, two, three and four of the First Appendix of the report. In order for all senators to have the opportunity to propose their amendments, I suggest that we proceed as follows:

[English]

I would ask senators who intend to propose amendments to any of these chapters to do so now, but the consideration of the amendments will be suspended until we dispose of the appropriate chapter — that is Chapters One, Two, Three or Four. This would ensure that the committee is seized of the amendments should we run out of time.

• (1630)

After receiving the amendments, we would then proceed to debate the chapters. After having debated the chapters, we would then deal with the motions necessary to dispose of them.

Are there any amendments?

**Senator Tardif:** Thank you, Mr. Chair.

[Translation]

**Senator Tardif:** I would like to begin my comments —

[English]

**Senator Cools:** — natural order to proceed in this way? I would think that, if we follow the natural order, since that is what the order of reference laid out, we will find that there are some rules some honourable senators want to make amendments to. However, I do not understand the purpose of banking or collecting amendments in advance of the order being called in its rightful place.

**The Chair:** After this initial period that just took place, which shall be a maximum of one hour, the order calls for the committee to consider Chapters One, Two, Three and Four of the First Appendix of the report for a maximum of one additional hour.

I have now called for amendments. The Honourable Senator Tardif has indicated that she has an amendment. We will hear that and any other amendments, and then begin within the hour the debate of Chapters One, Two, Three and Four.

[Translation]

**Senator Tardif:** I would like to begin my comments by thanking the committee, which has worked energetically and vigorously on this major project. I thank it very sincerely and I am convinced that the changes presented to us will allow the Senate to work more efficiently. The wording of the revised version is better, and I am very pleased to see a much more comprehensible French version.

[English]

As the chair has indicated, we will be looking today at Chapters One through Four, and I want to draw attention to two particular issues that I have identified as requiring the attention of the Senate.

I have spoken about this matter with honourable senators opposite, as well as within my own caucus, and I will present them. I would ask that the pages circulate the two amendments, if they could.

The amendment I will be presenting pertains to rule 2-5(3). I would like to draw attention to proposed new rule 2-5(3), which addresses the appeal of a Speaker's ruling and reads in part:

The appeal shall be decided immediately using the procedure for a vote on a non-debatable motion.

This proposed new rule makes, in my estimation, substantive changes to what is currently in place. I think something as important as an appeal of a Speaker's ruling requires a maximum amount of time and flexibility for honourable senators to consider the matter at hand. I believe, therefore, that it is more appropriate to use the normal procedure for bells for such a vote rather than the procedure for voting on non-debatable motions.

Therefore, honourable senators, I move:

That the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted but that it be amended in the First Appendix of the report to read as follows:

That chapter two of the First Appendix of the report be not now adopted but that it be amended by replacing rule 2-5(3), at page 25 of the Appendix (page 441 of the *Journals of the Senate*), with the following:



“Appeals of rulings

**2-5.** (3) Any Senator may appeal a Speaker’s ruling at the time it is given, except one relating to the expiry of speaking times. The appeal shall be decided immediately using the ordinary procedure for determining the duration of the bells.”

I would ask the pages to also circulate my second amendment. In that one, I draw attention to Chapter Four, which deals with the ordering of government business. I would like to first remind the chamber of the wording of the current rule. Rule 27(1) reads in part:

Government Business shall be called and considered in such sequence as the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate shall determine.

The wording proposed by the Rules Committee found in new rule 4-13(3) says:

At any time during Government Business, either the Leader or the Deputy Leader of the Government may indicate the order in which the remaining items of Government Business are to be called.

In practice, it has been my experience that if the sequence of government business set out in the Order Paper and Notice Paper was to be reordered, usually there would have been an earlier discussion between the deputy government and deputy opposition leaders. The Deputy Leader of the Government would then rise when Orders of the Day were called to inform the Senate in what sequence the various items of government business would be called.

However, this is not the practice described in the new proposed rule. In fact, the word “sequence” is dropped from the new rule. The word “sequence” certainly strengthens the impression that the order of items should not be determined on the run, one at a time. In my own experience and from my examination of practice prior to my assuming this role, I cannot find any occasion where the Deputy Leader of the Government changed the agreed-to or understood sequence of events or items while in the middle of government business.

I believe it would be beneficial if all honourable senators knew from the start what the new order of government business will be if it is to be changed from what is in our Order Paper and Notice Paper. That has certainly been the unbroken practice during the current wording of rule 27(1).

Consequently, I feel this wording should be retained in our new rules. Therefore, honourable senators, I move:

That the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted but that it be amended in the First Appendix to the report as follows:

That chapter four of the First Appendix of the report be not now adopted but that it be amended by replacing rule 4-13(3), at page 43 of the Appendix (page 459 of the *Journals of the Senate*), with the following:

[ Senator Tardif ]

“Ordering of Government Business

**4-13.** (3) Government Business shall be called in such sequence as the Leader or the Deputy Leader of the Government shall determine.”

**The Chair:** Are there further amendments to Chapters One, Two, Three or Four that honourable senators wish to put forward?

**Senator Cools:** No, I withdraw.

**Senator Kinsella:** My difficulty is that the French version of rule 1(1) is the same in both the revised text and the actual text. Regarding the revised text, it is the issue of committees and procedures in committees being used as authority for procedures in the chamber. The current rule 1(1) does not make reference to drawing on practices or procedures in Senate committees.

In my opinion, the current rule is preferred, although it is interesting that the French version of the current rule does say “ses comités.”

I will listen to the discussion, but I am signaling that I might move an amendment to maintain the present version that has worked for several decades.

**The Chair:** Senator Kinsella, as long as it is understood that we have some 50 minutes left, by order of the Senate, to deal with Chapters One, Two, Three and Four. If the honourable senator does, in fact, wish to make an amendment to rule 1(1), either in the French or the English, or both, he would have the 50 minutes to do it. I thank him for bringing that to our attention.

**Senator Kinsella:** The amendment technically will be to maintain the present wording.

**The Chair:** In both the English and the French?

**Senator Kinsella:** No. I would want the French to say the same thing as the English.

**Senator Tardif:** Which one?

• (1640)

**Senator Kinsella:** Current rule 1(1).

[Translation]

**Senator Fraser:** Which version?

**Senator Kinsella:** The English version.

[English]

**The Chair:** I will come back to you again, Senator Kinsella.

Honourable senators, we have before us to date two amendments made by Senator Tardif and seconded by Senator Cowan. Instead of reading them, shall I dispense, honourable senators, and is it agreed that they are now lawfully before this Committee of the Whole?

**An Hon. Senator:** Yes.

**The Chair:** Moved by Senator Tardif, seconded by Senator Cowan; agreed.

**Senator Cools:** I am trying to follow this process. Right now are you banking the amendments?

**The Chair:** That is correct.

**Senator Cools:** Then you will begin debate afterwards on the amendments?

**The Chair:** Right now I am calling for amendments to Chapters One, Two, Three and Four.

**Senator Cools:** I understand that.

**The Chair:** We have amendments to Chapters Two and Four, and I am still calling for other amendments. Senator Kinsella is considering an amendment to No. 1.

**Senator Cools:** I also have an amendment on a similar ground as that of Senator Kinsella. Maybe I should move it, too.

**The Chair:** Maybe you and Senator Kinsella could get together —

**Senator Cools:** No. It would be best if the house could have the choice of the better. We are not as cozy.

**Senator Duffy:** As a member of the Rules Committee, I rise on a point of information. As our colleagues who testified earlier have told us, there was extensive consultation and I must say at times vigorous debate in the Rules Committee, both in public and in camera, in discussion of all of this. The reports that are presented to the house today have been subject to a fairly rigorous process.

My question to the leadership or to Senator Tardif perhaps, is the following: Has the senator's amendment been discussed with the so-called leadership? Were members of the Rules Committee on our side aware that this amendment would be made in advance? Is there a reason that it did not come to the Rules Committee itself?

**Senator Tardif:** Yes. Further to the Speaker's ruling, we felt that the Speaker had given a very strong recommendation. We took the opportunity to examine the rules once again. We read them very carefully. In that reflection and in that rereading, certain elements did come up. We did mention them to the committee members on the other side, as well as to my honourable colleague Senator Carignan, who has agreed that these are reasonable amendments to put forward and to support.

**Senator Fraser:** I also had discussions with Senator Stratton from the other side, not about the precise wording of the amendments but about the substance of the amendments. I think he would confirm that we were in agreement as to the substance. What I am trying to say is that there was bipartisan discussion.

**Senator Stratton:** If I may, senator, what happens with amendments is that in this particular case they were being massaged right up until this morning, virtually. To try to take a set of amendments to the Rules Committee was not possible. Rather, what we tried to do was to work with the subcommittee on the sense of the amendments and the principle of the amendments. Having reached agreement on that, we then proceeded to do the wordsmithing, which quite often takes a while.

**Senator Duffy:** Allow me, Mr. Chair, to finish by making the point that it seems regrettable that, for something on which there has been such teamwork going on for so long not only by the steering committee but also by the regular members of that committee, time was not found even for an email update, a conference call or a brief meeting to say here is where we are going, or here is what is being suggested. I file as a note of regret that that extra step was not taken.

[Translation]

**Senator Carignan:** I apologize and take part of the blame regarding the sending of information on the proposed amendments. We discussed the appropriate way to bring amendments and the government leadership agrees with the amendments proposed by Senator Tardif on the ground that, in practice, the existing situations are clear and reflect an adequate process.

We did not want to include a new section that would change this practice, both as regards section 4-13(3), dealing with the reordering of Government Business, and regarding an appeal of a Speaker's ruling, which has an impact on the bells. To appeal a Speaker's ruling is a very serious matter. It is rather unusual, but it can happen because the rules allow it.

It seemed acceptable and even desirable to draw attention on the seriousness of appealing a Speaker's ruling and requiring the bells. However, in its desire to be productive, functional and efficient, the committee may have omitted a few things. In fact, we were reminded of that, and appropriately so.

As for reordering Government Business, the current practice provides that this must be done at the beginning of Government Business, to avoid taking people by surprise and to clarify the situation. We are comfortable with the practice that applies to the current version. Should there be a dispute later on regarding the change made to the order or to the time, it would then be possible to simply call on the Speaker, who could decide whether the current wording of the section allows the leader or the deputy leader to amend the order without consent, or at a time other than at the beginning of Government Business.

Since this practically never happens, and since the current practice is rather well established, it seems appropriate to keep the current version.

[English]

**The Chair:** Thank you, Senator Carignan.

Honourable senators, are there any further amendments to Chapters 1, 2, 3 or 4?



**Senator Mahovlich:** I just want to mention that I agree wholeheartedly with Senator Kinsella to leave No. 1 alone. I think it is very important to leave that Latin alone; it has worked so well all these years. However, if you can install the Latin in the French version, I think we would have it.

**Senator Cools:** Yes, I have a couple of amendments, moved by myself, obviously, seconded by Senator Watt. It is on the same issue as Senator Kinsella's. Just in case the time goes by quickly, I would like to move mine as well.

• (1650)

I move, seconded by the Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 1, on page 21, by replacing section 1-1 with the following:

**"1-1. (1)** The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules.

**1-1. (2)** In any case not provided for in these Rules, the practices of the Senate and the House of Commons shall be followed, with such modifications as the circumstances require."

We are not in debate; we are just banking. Is that it?

**The Chair:** That is correct.

**Senator Cools:** It is essentially the same issue that a Senate committee is a delegated authority, so the Senate should not be following practices or precedents set in committees.

It is essentially the same concern, but it is just to put it in the bank. It is a bank and banks, as we know, are good holders of valuable things.

**The Chair:** Could the table have a copy?

**Senator Cools:** Absolutely.

**The Chair:** Honourable senators, it has been moved by the Honourable Senator Cools, seconded by the Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 1, on page 21, by replacing section 1-1 with the following:

**"1-1. (1)** The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules.

**1-1. (2)** In any case not provided for in these Rules, the practices of the Senate and the House of Commons shall be followed, with such modifications as the circumstances require."

It is now moved and seconded and before the chamber. Is it adopted as a motion before this chamber, honourable senators?

**Hon. Senators:** Agreed.

**The Chair:** It is agreed that it is before the chamber for debate.

I now call for further amendments on Chapters 1, 2, 3 or 4. Are there any further amendments?

There being none, the floor is open for debate on any of the amendments on the floor.

We have 39 minutes. I will hear Senator Carignan and Senator Fraser.

[Translation]

**Senator Carignan:** I disagree with Senator Cools' proposed amendment. It is not unlike the idea Senator Kinsella raised earlier.

I had the chance to speak with Senator Kinsella. The idea of adding committees came from the fact that in the former English and French versions, there was a contradiction. The phrase "or its committees" was included in the French but not in the English. We decided to uphold the idea that the Rules also govern the committees because in any event, we have the phrase "as the circumstances require." This concept of adapting the Rules allows the committee to be governed by the Rules. If there were a rule that was not appropriate for a committee, it could make the necessary adaptations to make the rule applicable to the committee.

It is the content of the current rule that is being upheld. By eliminating the notion of committee, we amend the very substance of the current rule. The revised text clarifies this situation to make this the case both in French and in English. By removing the notion of committee, oddly, we would amend the current version with regard to the one that should have rule of law, because it is clear enough in the current French version that this also applies to the committees.

[English]

**Senator Fraser:** Along similar lines, Mr. Chair, the present rules say — actually, in both English and French, although the ordering of the wording is different — that both the Senate and its committees, in any case that is not provided for in these Rules, will, *mutatis mutandis*, follow the practices of the Senate or its committees, *mutatis mutandis*.

[Translation]

And it says roughly the same thing in French.

[English]

If I had to choose between the two similar amendments that have been put forward to us, I would choose the one presented by the Speaker, because it would follow the operating principle we had, that if we did not have agreement, then we would revert to the substance of the rules as they stand.

That would take care of what would be the second paragraph of Senator Cools' amendment. I would opt for the Speaker's amendment.

For the first paragraph of Senator Cools' amendment, my difficulty is the "*Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules."

Part of the difficulty is that some of the appendices to the rules now, which would be reproduced in the new version, actually have been adopted by order of the Senate. They are more than practices, and I think it just becomes complicated and possibly confusing to get into a discussion of "practices described in the appendices." I think it was useful to keep the distinction between practice and appendices.

Finally, I do not know whether we are heading for consensus here or not, but I wonder if the Speaker would contemplate a friendly amendment to his proposed amendment. He has not made it, but I think he said he was going to — or he did, sort of — which would be to pick up the second sentence of proposed new rule 1-1(2), which says, "The practices of other equivalent bodies may also be followed as necessary."

[Translation]

What is more, the practices of other equivalent bodies may also be followed as necessary.

[English]

As I tried to say in the earlier portion of this meeting, the fact is that, when matters go so far as requiring a Speaker's ruling, the Speaker will frequently refer to practices in other equivalent bodies, such as Westminster or provincial legislatures. That being the practice, I would still think it would be not a bad idea to include that.

**Senator Cools:** That rule has a very long history. In its original form years ago, it used to include the House of Lords. Then, later, as it developed, it included the House of Commons. However, it has never before included the committees.

The important point that Senator Fraser is making is, I think, a very different kind of point. The fact of the matter is that we do not know what an equivalent body is to the Senate, in this country or in any other country. We would not want a case where a ruling in the Senate of some unknown land that we do not know much about could be applied. The intention of that rule was always

ever to refer to practices of bodies higher, mostly in the House of Lords or equal to, since the Senate is equal to the House of Commons, since it has coordinate powers with it. It was never intended to be for unnamed equivalent bodies.

• (1700)

What could be contemplated there and used to be used in practice was an appeal to what they will call all those assemblies and parliaments that use the common law. They would call it the common law of Parliament. I suggested my amendment wording as I did because it is unclear, selective and subjective opinion as to what body is an equivalent body to the Senate.

I have no emotion or sentiment or anything wrapped up in this. I am prepared to accept the decision. We know I always accept the decisions of the house; right, Senator Comeau? I always do, even when they are wrong.

**Senator Ogilvie:** I wish to speak briefly to one of the amendments that I have in my hand that deals with section 1-1(1) and section 1-1(2). I personally think it is a mistake to delete reference to the practices of committees in this section. In the short time I have been here, the very limited examples of practice in committees that lie outside the formal rules have been put to good experience in the committees. I would like to see the actual reference to committees remain within this section, and I will be voting against this amendment.

[Translation]

**Senator Carignan:** I would like to clarify something regarding the amendments currently before us. Senator Kinsella did not propose any amendments, and my understanding is that he had no intention of doing so. Thus, it is not correct to talk about Senator Kinsella's amendment, or amendment to the amendment, as this could create confusion. To my knowledge, there are currently three proposed amendments, and I think we need to focus on those for the moment.

As for similar assemblies and the notion of this addition in the revised text, the former text talked about "usages, forms and proceedings of either House of the Parliament of Canada." However, speakers' rulings are often based on rulings handed down in other chambers. All authorities cited often use rulings from other chambers, particularly other Commonwealth assemblies, but not necessarily limited to Commonwealth countries.

That is why we changed this part of the Rules — in order to clearly indicate that referring to similar assemblies in the context of speakers' rulings is a well-established practice. The purpose of this section is to formalize a rule that is already a well-established practice: drawing inspiration from other institutions.

[English]

**The Chair:** Honourable senators, we have just a little over 20 minutes left in this 60-minute section or the hour available to consider Chapters One, Two, Three and Four. It is almost over. I would remind senators that once the hour has run out, no



further amendments can be received. I would therefore invite honourable senators who intend to propose amendments to do so now. If there are no further amendments now, the floor will still be open for further debate.

**Senator Cools:** Honourable senators, I have an amendment to the new 2-13(1). Maybe I should put it first. Actually, it is sub (1), (2) and (3). I move:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 2, on page 27, by replacing sections 2-13 with the following:

**“2-13. (1)** If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question “That strangers be ordered to withdraw”, without permitting any debate or amendment.

**2-13. (2)** When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.

**2-13. (3)** When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate.”.

It is seconded by Senator Watt.

**The Chair:** Honourable senators, it has been moved by Senator Cools and seconded by Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 2, on page 27, by replacing sections 2-13 with the following:

**“2-13. (1)** If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question “That strangers be ordered to withdraw”, without permitting any debate or amendment.

**2-13. (2)** When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.

**2-13. (3)** When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate.”.

Honourable senators, this amendment has been moved and seconded, and it is now before us for further debate.

Senator Cools, did you wish to say something?

**Senator Cools:** Thank you, honourable senators. This particular rule, formerly rule 20, has stood in essentially the same words as it is now for about 100 years, and it has stood in the same words almost in the House of Commons. The reason I have moved this amendment, honourable senators, is not just nostalgia but to uphold the dignity of all of those who have gone before us, who worked hard to create this system for us and who have passed this on to us as an entailed inheritance. This rule that someone has rewritten is taken from the actual words of Benjamin Disraeli in 1875. There is something wrong with passing judgment retroactively on people's grammar or style, just like there is something wrong with someone changing things because the style is not likeable. There is something wrong with that.

What I am trying to say to honourable senators is in those days and until very recently, most of these rules that we were deforming in this go-round were actually moved by the original people who set the precedents themselves, by those individuals standing on the floors of the houses making those motions.

• (1710)

If you read the earlier editions of Bourinot and Beauchesne, you see them being very slavish to the actual words of the original precedent, which I have for those who are interested in looking at it. It was moved in 1875 by Mr. Disraeli, then British Prime Minister, on an important question of strangers. It was changed slightly here in 1991 when divided into two parts. Quite frankly, the words of Disraeli set the precedent, defined and articulated it and were carried right across the Commonwealth. In that particular way, they bear something worthy of preservation in our history. I would like to move that for the sake of preserving those words. Some of those gentlemen spoke well and they spoke long; and I have great respect for them. I do not understand manipulating or deforming other people's words for nothing other than style.

This committee change is not substantive; it is stylistic. I understand there is a fair amount of vanity tied up in much of this, understandably because people worked hard. This rule needed no change, neither in substance nor in form. I just wanted to record that. Many of these changes have not been premised on their origins where they were originally spoken and adopted by us in “the colonies.” If anyone is interested, those words spoken by Mr. Disraeli in debate in 1875 were adopted verbatim by the House of Commons of Canada and the Senate.

**Senator Stratton:** Briefly, the whole intent was not to insult anybody from the past. That was not the intent of this at all. Rather, it was to take a 21<sup>st</sup> century look at the way the language is written and interpreted today. It is simply that and has nothing to do with our taking what was written at that time and deeming it inappropriate. We simply want to move it into the 21st century.

**Senator Cools:** Perhaps then one should begin with a blank paper and pencil and start writing from scratch. That would take some skill.

**Senator Stratton:** You would not want to do that either. We take what was previously written, with respect, look at it and see how it can be improved so that it makes more sense under today's usage of the English language — simply that.

**Senator Cools:** Perhaps you could explain the improvement. That is the characteristic of this movement and this proceeding.

**Senator Stratton:** I think I just did that.

**Senator Cools:** They are not explained.

**Senator Stratton:** I think I just did that.

**Senator Cools:** That was not an explanation.

**The Chair:** Is there further debate, honourable senators?

[Translation]

**Senator Carignan:** Clearly, there was no change to the substance of the text in that part. Whether we are referring to the report or the notes, the new version does not change the substance of the old Rule. The new version states "That strangers do withdraw" rather than "That strangers be ordered to withdraw." The substance is the same. The only changes we made were to the form, the style or the words used to translate the Rules.

Although I think it is noble to want to return to tradition or to the spirit of tradition, the problem with copying some of the old articles into the new version without using the same words or style as the rest of the new version is that it creates interpretation issues because the same wording is not being used. The entire team worked on the writing — and I use the word "team" because there were senators, table officers and staff — to try to ensure that the words used in one article were the same as those used in another. So, I think it is dangerous to import text directly. Upon reading the amendment, I find it hard to imagine what problems it could cause. However, in future practice, problems could well arise.

I therefore disagree with the proposed amendment because it is not a substantive change; it is simply a return to the former style. There is a risk of error that, for now, I am unable to identify. However, it is very likely that there would be a risk of error.

Often, during a trial or ruling, those who are interpreting a law realize that it was amended in this fashion at the last minute by a committee, which makes the law confusing. They try to find meaning in that amendment but there is none; it was made simply as a result of a desire to change something.

It is risky to cut and paste. I would prefer to stick to the logical way it has already been written.

[English]

**Senator Cools:** In that instance, I simply proposed a reversion to the original. However, if we really want to look at updating and clarifying the rules, we would certainly look at the proposed new rule 2-13(3), which says:

When strangers are ordered to withdraw, the public galleries shall be cleared, but individuals authorized to be in any part of the chamber during a sitting shall continue to have access to it.

If there was a rule that needed revising, it was that one. As the event showed some months back during the Speech from the Throne on June 2, 2012, if the Speaker had ordered the galleries or the floor cleared of strangers, the offensive individual would have been allowed to stay. Let us understand: There was a time when that rule did not allow any strangers whatsoever to stay. It has been amended to include many strangers. In ancient days that one person had only to say, "I spy a stranger," and that was the immediate order to clear all strangers out. It has been modified over time, but in today's community we are facing equal chances that the offender will be one of those strangers authorized to be on the floor of the house.

I am looking for the opportunity in this debate to raise that issue and to address the fact that all of us that day sat here hoping and wishing that nothing bad would happen; but some action should have been taken. If we want to look at bringing something into modernity, the rule of automatically admitting every stranger here because they work for the Senate perhaps should be reviewed.

Just think about it, Senator Carignan: If that had been invoked, that offensive person could have claimed a right to remain here. I ask you to think.

**The Chair:** Is there further debate, honourable senators?

[Translation]

**Senator Carignan:** The last part of Rule 2-13(3) states: "but individuals authorized to be in any part of the chamber during a sitting shall continue to have access to it." It goes without saying that those who are authorized to be there are not strangers. If the Rule was applied to or targeted a specific individual, it would not fall under the section about clearing the galleries.

• (1720)

The Speaker could exercise his or her authority to order a person to withdraw because that person is being disruptive or could have powers other than the power to exclude strangers. For example, if a page created a disruption, the Speaker, by virtue of the power to maintain order, could direct the Usher to remove that person.

[English]

**Senator Cools:** That rule is not the rule that is required to eject a disorderly person. That rule is an emergency rule to empty the place of strangers, and a stranger is a person who is not a member of this house. There was an instance in the House of Commons, a long time ago, where a senator was ordered out of the House of Commons because one member called, "I spy a stranger." That rule has a long history and, with all due respect to the honourable senator, many of these rules are older than we are. If I were convinced that the committee had done that study and research, it would be a different matter. However, honourable senators will recall that I did sit in on a few of those meetings, and I saw no such penetration of the history, purpose and foundation of these rules. Some of them for which alteration and change is proposed go back to pre-Confederation, to the old legislative councils.



Let us be aware, when we are revising, that we are now living in an era when security is a question uppermost in most people's minds and that rule, the clearing of strangers, is a very important rule. That is all I was saying, and I would say that the words that maintain the tradition are worth keeping.

It is pretty clear to me that nothing I say here will be taken. I think I had an inkling of that before I began, but, if we are going to debate this, we should debate on the grounds of argument, evidence and study. It would be nice to win the arguments in debate, not by muscle but by vote. I commend that to the honourable senator. Try it.

[Translation]

**Senator Carignan:** I would like to clarify that we studied past practices and the history of the rules. That is why we kept the rule that a senator can object to the presence of strangers and ask them to withdraw. That rule was kept because we found it to be relevant. It was not changed. The substance of the rule has not been changed. The formulation was changed to make it clearer and stylistically similar to the other rules. The substance of the rule — that a stranger can be forced to withdraw — has not been altered.

[English]

**Senator Cools:** The change has altered the nature of the question that the Speaker will put.

[Translation]

**Senator Carignan:** Everyone could agree that the question now be "That strangers do withdraw" to maintain the tradition of the words "that strangers be ordered to withdraw." I believe we would find unanimous consent.

[English]

**Senator Cools:** Like the honourable senator, I am sticking to my guns.

**The Chair:** I would like to draw to honourable senators' attention that we have three minutes left in this hour for amendments to chapters 1, 2, 3 or 4. Are there any other amendments?

[Translation]

**Senator Carignan:** Since we have just three minutes left, I would move an amendment to maintain the original question on the withdrawal of strangers.

Out of respect for tradition, instead of saying, "that strangers shall withdraw," we would say, "that strangers be ordered to withdraw" given the history of the question and the wording.

[English]

**Senator Fraser:** That strangers be ordered to withdraw?

[Senator Cools]

**The Chair:** It is moved by Honourable Senator Carignan, seconded by Honourable Senator Tardif:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 2, on page 27, by replacing sections 2-13. (1) with the following:

"2-13. (1) When, during a sitting of the Senate or a Committee of the Whole, a Senator objects to the presence of strangers, the question "That strangers be ordered to withdraw" shall be decided immediately."

Is it agreed, honourable senators, that this amendment is now lawfully before this Committee of the Whole?

**Hon. Senators:** Agreed.

**The Chair:** Honourable senators, is there any further debate?

**Senator Cools:** Chair, the debate has been dominated by members of the committee. I am the only non-member of the committee who has participated. Perhaps you can make an appeal to any of those other senators who might want to say something.

**The Chair:** I have called, on many occasions, asking whether honourable senators wish to participate in the debate.

**Senator Cools:** I know, but I am asking if you could ask for the last time.

**The Chair:** I did not want to single out certain senators.

**Senator Cools:** I am aware of that. The Chair has been very sensitive, but I am saying that maybe he could ask one last time.

**Senator Duffy:** I think we have learned a lesson here today, honourable senators. Things proceed smoothly when we have proper, advanced preparation. Might I suggest that if there are other amendments coming in future weeks to this work that we have spent years on, that some of us — at least the members of the committee — be alerted in advance so that we would not have this sprung on us at the last minute? If we are going to put this through — and there are points on both sides — having a fully informed committee would be important.

[Translation]

**Senator Robichaud:** I agree with what Senator Duffy said. This project is now before the Senate and all senators must receive the same information. This project to change the Rules is no longer before the committee. It is before the Senate. Advance notice would be good, but it should not limit our privilege to present amendments during debate on the issue.

[English]

**Senator Ogilvie:** I will speak against the suggestion of the honourable senator. I think that the amendments put before this chamber are in language that is easily understandable. During the course of debate, it is entirely possible that members of a body

such as this would see aspects of important issues that have not occurred to them before, and I would urge that this chamber not preclude amendments arising from the floor.

**Senator Duffy:** Mr. Chair, my suggestion was not that amendments be precluded, but that members of the committee who have worked on this not be excluded by the steering committee from understanding where the process is going and what arrangements have been made bilaterally.

**The Chair:** I think that the record will show that Honourable Senator Duffy's very first intervention made that clear. It is now very clear.

Honourable senators, the hour available, under the order of the Senate, to consider chapters 1, 2, 3 and 4 has expired and, accordingly, I must interrupt proceedings to put all questions without further debate.

Honourable senators, we are now disposing of chapter 1. The Honourable Senator Cools has moved, seconded by Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 1, on page 21, by replacing section 1-1 with the following:

**1-1. (1)** The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules.

**1-1. (2)** In any case not provided for in these rules, the practices of the Senate and the House of Commons shall be followed, with such modifications as the circumstances require.

• (1730)

Is it your pleasure, honourable senators, that the amendment shall carry?

**Some Hon. Senators:** No.

**The Chair:** The amendment is negatived.

Shall Chapter One carry unamended?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

**Senator Cools:** Mr. Chair, I am a little bit puzzled by the process. I was under the impression that we would not actually be voting on all of this today.

**The Chair:** That is what the order provides.

**Senator Cools:** No, no, the order does not tell the committee what to do; it just prescribes what it can recommend to the house. The order says it must make a recommendation to adopt or not to adopt. It is not my understanding that they are to go back with a report saying it was adopted here in the Senate. We could look at a copy of the motion.

**The Chair:** We are in the Committee of the Whole. I will read what the order says:

... after this initial period, which shall last a maximum of one hour ... after which the chair shall interrupt proceedings —

— which I just did —

— to put all questions necessary to dispose of these chapters successively —

— meaning Chapters One, Two, Three and Four —

— without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business. . . .

Honourable senators, we are now disposing of Chapter Two. The Honourable Senator Tardif moved, seconded by the Honourable Senator Cowan:

That chapter two of the First Appendix of the report be not now adopted but that it be amended by replacing rule 2-5(3) on page 25 of the Appendix (page 441 of the *Journals of the Senate*), with the following:

Appeals of rulings

**2-5. (3)** Any Senator may appeal a Speaker's ruling at the time it is given, except one relating to the expiry of speaking times. The appeal shall be decided immediately using the ordinary procedure for determining the duration of the bells.

Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Yes.

**Senator Cools:** Mr. Chair, you are not asking for abstentions.

**The Chair:** I just asked if it carried. May I finish doing that first?

**Senator Cools:** Absolutely, but you did not ask for abstentions for the previous one.

**The Chair:** Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Yes.

**The Chair:** Is it your pleasure that it be negatived, honourable senators?

The amendment is carried.



**Senator Cools:** I would like to record a series of abstentions.

**The Chair:** That shall be so noted.

Honourable senators, we continue disposing of Chapter Two. The Honourable Senator Cools has moved, seconded by the Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended in Appendix I, chapter 2, on page 27, by replacing section 2-13 with the following:

**2-13. (1)** If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question "That strangers be ordered to withdraw", without permitting any debate or amendment.

**2-13. (2)** When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.

**2-13. (3)** When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate."

Honourable senators, is it your pleasure that this amendment carry?

**Some Hon. Senators:** No.

**Senator Cools:** On division.

**The Chair:** It is negatived.

We have noted, Senator Cools, that you wanted to have your objection recorded.

**Senator Cools:** I want to show I disagree with the negative vote. It is not an abstention. You did not call for a vote, so it cannot be a positive. It has to be an "on division."

**The Chair:** Thank you. That is noted, Senator Cools.

We continue with disposing of Chapter Two. The Honourable Senator Carignan moved, seconded by the Honourable Senator Tardif:

That the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted but that it be amended in Appendix I, chapter 2, on page 27, by replacing section 2-13. (1) with the following:

**"2-13. (1)** When, during a sitting of the Senate or a Committee of the Whole, a Senator objects to the presence of strangers, the question "That strangers be ordered to withdraw" shall be decided immediately."

Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

**Senator Tardif:** That was not the right one.

**Senator Cools:** The order goes in reverse.

**The Chair:** Senator Carignan, you have the floor.

[Translation]

**Senator Carignan:** The proposed amendment had to do with section 2-13.(1) and replacing "That strangers do withdraw" with "That strangers be ordered to withdraw."

[English]

**The Chair:** That is precisely what I just said.

[Translation]

**Senator Carignan:** I would like the last phrase of the proposed amendment to be clear, because that is not what I heard. Section 2-13.1 should read as follows: "When —

**The Chair:** "be ordered to withdraw."

**Senator Carignan:** That is at the beginning. It comes before. I think you read the current version instead of the new version.

[English]

**The Chair:** The old version said that "strangers do withdraw," and your amendment is to remove the word "do" and replace it with "be ordered to withdraw," and that is the motion I put to the Committee of the Whole right now.

**Senator Carignan:** Okay, I agree.

**The Chair:** That is what I said and that is what the committee voted on.

[Translation]

**Senator Carignan:** Okay. That is not what I understood.

[English]

**The Chair:** Honourable senators, shall Chapter Two carry as amended?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

There were no amendments to Chapter Three. Shall Chapter Three carry?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

We are now disposing of Chapter Four, honourable senators. The Honourable Senator Tardif moved, seconded by the Honourable Senator Cowan:

That chapter four of the First Appendix of the report be not now adopted but that it be amended by replacing rule 4-13(3), at page 43 of the Appendix (page 459 of the *Journals of the Senate*), with the following:

“Ordering of Government Business

**4-13.** (3) Government business shall be called in such sequence as the Leader or the Deputy Leader of the Government shall determine.”

Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

• (1740)

Shall Chapter Four as amended carry?

**Hon. Senators:** Agreed.

**The Chair:** Carried.

Honourable senators, pursuant to the order of the Senate of May 17, 2012, I declare the committee adjourned until its next meeting, which will be on the next Tuesday the Senate sits, at the end of Government Business. Under the order of the Senate, the committee is not required to seek leave to sit again.

Honourable senators can return their copies of the Journals to the pages if they so wish, so they can be used at future sittings. The committee is now adjourned.

(The committee adjourned.)

**The Hon. the Speaker:** Honourable senators, the sitting is resumed.

[Translation]

## STUDY ON THE ESTABLISHMENT OF A “CHARTER OF THE COMMONWEALTH”

THIRD REPORT OF FOREIGN AFFAIRS  
AND INTERNATIONAL TRADE COMMITTEE—  
DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *A Charter “Fit for Purpose”: Parliamentary Consultation on the Proposed Charter of the Commonwealth*, tabled in the Senate on April 3, 2012.

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I know that Senator Andreychuk wants to speak to this subject. She has not had the chance to prepare her notes. I want to take the floor to reset the clock. I would ask to adjourn the debate for the rest of my time.

(On motion of Senator Carignan, debate adjourned.)

[English]

## INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA’S DOMESTIC AFFAIRS

### INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada’s domestic affairs and their abuse of Canada’s existing Revenue Canada Charitable status.

**Hon. Nicole Eaton:** Honourable senators, I have been busy in the Standing Senate Committee on National Finance and have not had an opportunity to finish my remarks. I would like to adjourn the debate in my name for the rest of my time.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Perhaps I will ask the table to refer us to the order that we have just given the continuation of the adjournment to Senator Eaton. I am advised by the table that we are at No. 32, resuming debate on the inquiry of Senator Eaton calling the attention of the Senate to the interference of foreign foundation in Canada’s domestic affairs and their abuse of Canada’s existing Revenue Canada charitable status. Senator Eaton rose to adjourn the debate on that item. I understood for the remainder of her time.

**Senator Fraser:** No. She has already spoken.

**Senator Eaton:** I would like to close the debate, Mr. Speaker.

**Senator Tardif:** We do not close the debate on inquiry.

**The Hon. the Speaker:** I will check at the table as to whether Senator Eaton has spoken before. Has Senator Eaton spoken before?

**Senator Eaton:** Yes, I proposed the debate, Your Honour. I understood from my research that I could close the debate, and that is what I wish to do.



**The Hon. the Speaker:** Perhaps if the matter is simply stood in the name of Senator Duffy, where it is currently adjourned, Senator Eaton is absolutely correct. As the mover of it, she has the right of final reply. However, I think other senators may wish to speak.

Is it agreeable that this item remains standing in the name of Senator Duffy?

**Hon. Senators:** Agreed.

(Order stands.)

## HUMAN RIGHTS IN IRAN

### INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Frum, calling the attention of the Senate to egregious human rights abuses in Iran, particularly the use of torture and the cruel and inhuman treatment of unlawfully incarcerated political prisoners.

**Hon. Anne C. Cools:** Honourable senators, I took this adjournment a couple of days back. It was in danger, as honourable senators will remember, of falling off the Order Paper. I was trying to help Senator Frum. I am prepared to speak to it, but my time is precious these days. I have been very busy. I am quite prepared to let it continue to stand in my name, and anyone who wants to speak is quite free to speak. At the end of the day, it is up to Senator Frum to decide how long she wants it around.

(Order stands.)

## EMPLOYMENT INSURANCE

### INQUIRY—DEBATE ADJOURNED

**Hon. Catherine S. Callbeck** rose pursuant to notice of March 28, 2012:

That she will call the attention of the Senate to the need to adequately support new mothers and fathers by eliminating the Employment Insurance two-week waiting period for maternity and parental benefits.

She said: Honourable senators, I am pleased to rise today on an issue that has been brought to my attention several times by people in my province. As honourable senators know, the Employment Insurance benefit proposes a two-week waiting period before a claimant can begin to receive either regular benefits, like when a person becomes unemployed, or special benefits, like for maternity or parental leave. I believe that the case of maternity and parental benefits is unique and that the federal government should eliminate the two-week waiting period for these types of benefits.

Since 1971, eligible biological new mothers can claim up to 15 weeks for maternity benefits. The benefits are capped at 55 per cent of their average insured earnings. Parental leave benefits were added in 1990 and were extended over the years so that parents now have up to a year of leave to care for their newborn babies. Right now, benefits can be received for up to 50 weeks; 15 weeks of maternity benefits for biological mothers only and 35 weeks of parental benefit, which are available to either parent, biological or adoptive, that can be shared.

In 2008 and 2009, more than 172,000 new mothers claimed maternity benefits, receiving an average weekly income replacement of \$350. In addition, nearly 194,000 biological and adoptive parents registered for parental benefits and received an average \$384 per week.

The two-week waiting period applies to every new claim. I think this waiting period imposes an unfair hardship and should be eliminated for maternity and parental benefits.

There has been considerable debate and discussion among various groups about this proposal. It has been suggested that eliminating the two-week waiting period for EI maternity benefits is not needed; there is no demand for it. I beg to disagree with that.

• (1750)

First and foremost, the measure has been widely advocated by the House of Commons Standing Committee on the Status of Women, which is made up of members of Parliament from all parties, as we all know. In fact, in its report in June 2009, this particular recommendation was endorsed by all members of the committee and received no dissenting commentary. The committee noted that it heard from several witnesses that the two-week waiting period for special benefit claims should be eliminated.

The elimination of the waiting period has also been advocated by the National Association of Women and the Law; the Canadian Federation of Business and Professional Women; the Liberal Women's Caucus; and, in my own province, the Women's Network of Prince Edward Island.

It has been suggested that the two-week waiting period eliminates short claims. Why should this apply to maternity and parental leaves? They are not short-term claims; they are actually very predictable in their start and duration. The average maternity benefit claim is for 14.6 weeks, just a few days short of the 15-week maximum. The average parental leave for biological and adoptive parents together is 28.3 weeks.

Eliminating the two-week waiting period would also not make these claims any more costly to administer. Applicants will not get their money any faster; payments will simply go back to the first day of the claim. In fact, maternity and parental benefits should be the easiest of all the EI benefits to administer. Again, they are predictable in their start and in their duration. It is inappropriate to place a waiting period on the people who are applying for these benefits.

When a family welcomes a new member, parents experience a drastic reduction of income when one parent stops working — often it is the mother. They also experience serious additional

costs in preparing for the new addition. Less income and additional expenses put a tremendous squeeze on new parents. The Québec Parental Insurance Plan recognizes this situation and does not impose a two-week waiting period for maternity and parental benefits.

Losing two weeks of income can be a terrible financial burden on families, especially for single parents. Indeed, about 16 per cent of single-father households live below the low-income cut-off, while more than 32 per cent of single-mother households live below the LICO. They are almost four times more likely to be poor than a two-parent household. All in all, almost 30 per cent of all single parents live below the poverty line.

The Canadians who are hardest hit by the waiting period are low-income mothers, who will rely solely on maternity and parental benefits. Many never receive an income supplement from their employers and find it difficult enough to support their new babies on just 55 per cent of their regular income.

Honourable senators, eliminating the two-week waiting period is a straightforward and easy change that would provide immediate support to Canadian families when they need it. It makes perfect sense. Maternity and parental benefits play a critical role for families. Support of these benefits allows women and men to stay home to nurture their child, which helps the child, their family and society at large. It is also good public policy. It helps new mothers and fathers bond with their children without too much financial worry, ensuring babies can have the very best start in life.

Furthermore, it would not cost the taxpayer one cent more. It would not extend the benefit period. It would be administered in existing facilities by existing employees. It will not require any additional time.

This is certainly an easy change, one that will help mothers, fathers, babies and our communities without costing the taxpayer anything more. I urge the federal government to reconsider eliminating the two-week waiting period for Employment Insurance maternity and parental benefits.

**Hon. Jane Cordy:** Would the honourable senator take a question?

**Senator Callbeck:** Yes.

**Senator Cordy:** I thank the honourable senator for her initiative on this very important issue, particularly for those who are low-income parents or low-income single mothers, because the two-week waiting period certainly causes great financial hardship.

The honourable senator talked about the two-week waiting period and said that the reason for it was to eliminate short-term claims. However, the honourable senator said, rightfully so, that it does not matter with parental leave or maternity leave because they will be claiming for only 50 weeks. Also, it should be a very easy file to administer, because they know that 50 weeks is the limit. Whether the two weeks are at the beginning, without the waiting period, or at the end, it will not cost taxpayers of Canada any additional money, but it will certainly make it much easier for new parents.

Does the honourable senator believe this would be an easy change to make, administratively?

**Senator Callbeck:** I thank the honourable senator for the question. Certainly, as the honourable senator says, it is very important to low-income families.

I do not see it as a difficult change at all. The recipient will get 50 weeks and they will get paid from day 1. I think it would really help out low-income families, especially, as I said, single mothers, who are having a difficult time if they are relying only on maternity and parental benefits, because they get only 55 per cent of their salary.

Therefore, no, I do not think this would be a difficult change at all. I think it would be very easy to bring about and one that would certainly be well received.

(On motion of Senator Hubley, debate adjourned.)

(The Senate adjourned until Wednesday, May 30, 2012, at 1:30 p.m.)



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SENATE



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# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, May 30, 2012



The Honourable NOËL A. KINSELLA  
Speaker



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## THE SENATE

Wednesday, May 30, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### UNITED NATIONS

**Hon. Nicole Eaton:** Honourable senators, a couple of weeks ago, a UN Special Rapporteur on the Right to Food, Olivier De Schutter, finished an 11-day visit to Canada, his first to a developed country. Unbelievably, he handed our government a laundry list of recommendations on very serious concerns about food safety. One has to wonder if perhaps he booked a flight to the wrong continent from where he really intended to go.

Clearly the time has come for a serious global examination of the role and viability of the UN. The United Nations was created in the post-world-war reality. Today, the organization has lost its focus, influence and authority.

The UN has demonstrated a remarkable powerlessness in Iraq, in Lebanon, in Africa, in Syria, in Egypt and in North Korea — need I go on — to say nothing of its role in combatting terrorism. The last thing we need is the very expensive empty platitudes and banal diplomatic posturing that we are witnessing with alarming regularity from this organization.

Sadly, the UN has become a repository for inept and bungling senior bureaucrats from every member nation. Even the choice of Secretary-General is based not on merit and competence but on some bizarre politically correct rotation that no one but senior UN bureaucrats understands.

First the United Nations accepts as member countries with atrocious human rights records and anti-democratic, autocratic regimes. Then the United Nations takes unsupportable stands against democratic nations, like their 79 resolutions directly critical of Israel since 2010 or their complete lack of control or influence over the situation in Syria. As recently as yesterday, in a statement condemning Syria for the Houla massacre, the UN Security Council issued a “non-binding” condemnation.

However, the prize has to go to Robert Mugabe, President of Zimbabwe and accused of ethnic cleansing, who has reportedly been asked by the United Nations to champion tourism. Mugabe has been honoured as the “leader for tourism” by the UN's World Tourism Organization. No, honourable senators, I am not making this up. The list goes on and on.

With the dawning of a new century, we are witnessing a new era in international associations. The world is dividing into multi-dimensional segments on geographic and ideological lines: a European Union growing weaker by the day, an Asia growing increasingly stronger economically, a Middle East struggling with the Arab Spring and religious tensions that know no borders.

The alliances that the UN represents have become irrelevant. It is time to put an end to the trillions of dollars —

#### WAR OF 1812

#### TWO-HUNDREDTH ANNIVERSARY

**Hon. Francis William Mahovlich:** Honourable senators, 2012 is an important year for Canada. Not only is it the year that we celebrate our Queen's sixtieth anniversary on the throne, but it is also the year we mark the two-hundredth anniversary of the start of the War of 1812.

While it would be another 55 years from the start of this war before Canada would become a sovereign country, I feel it is important to note the significant impact it had on the shape of our history.

[Translation]

The War of 1812 was the last military conflict between British North America and the United States.

[English]

It was a moment in history that shaped the country we have today, as well as the strong friendship we currently enjoy between two former foes, Canada and the United States.

The war also saw the emergence of some key figures that have since become legends in Canadian history, including Major General Isaac Brock, Chief Tecumseh, Charles de Salaberry and Laura Secord.

To commemorate this important time in our country's history, numerous events are taking place throughout Central and Eastern Canada, where the battles were fought. Some of the major battle sites can be found along the St. Lawrence River and Lake Ontario, from Cornwall right down to Windsor. Many of the events taking place throughout this summer will be re-enactments of everything from daily life in the era to some of the key battles.

August in Amherstburg will have women in period costumes cooking historical fare on the open hearth, as well as actors dressed as Chief Tecumseh and Major General Brock to tell their historic tales.

This coming weekend, there will be a re-enactment of the Battle of Stoney Creek, one of the most important battles during the war. During the Canada Day weekend, there will be a commemoration of the largest warship on Lake Ontario, the HMS *Royal George*, when dozens of ships gather in Bath and in Kingston. There will also be tall ships at Colchester Harbour on July 20 where people can experience re-enactments of ship to gun shore battles, as well as deck tours and public cruises.

Honourable senators, the two-hundredth anniversary of the start of the War of 1812 is a great way for Canadians of all backgrounds to experience and understand a part of our history

that may still be in the shadows to many. At the same time, they can experience the rich beauty that we find in these historical towns of our country.

• (1340)

I encourage all honourable senators, and indeed all Canadians, to find out more about the many commemorative events taking place this summer and participate in any that they can. I am sure these events will excite and perhaps even educate both the young and old.

### WHYTE MUSEUM OF THE CANADIAN ROCKIES

**Hon. Elaine McCoy:** Honourable senators, it gives me great pleasure today to talk about the legacy of a love story. Almost 85 years ago, one of our outstanding young artists from the Rocky Mountains — Banff, in particular — took himself to Boston to go to art school. There he met Catharine Robb. Catharine Robb was a debutante and, I am told, she was dating John D. Rockefeller. However, she met Peter Whyte and they fell in love.

Three years later, they were married, and they came back to Banff, where he built her a log cabin. They lived happily ever after, making wonderful art and promoting community relations with all those who settled there, as well as the First Nations, who had settled there tens of thousands of years before.

As a result, our wonderful legacy is the Peter and Catharine Whyte Museum of the Canadian Rockies.

I am telling honourable senators about this today because this year the museum launched a new permanent exhibit called “Gateway to the Rockies.” It celebrates all of those who have lived, worked and loved in the Rocky Mountains. It starts with the story of First Nations. It goes through the explorers, like David Thompson, who was also looking for a way to get resources across to the Pacific Ocean. It moves on to the surveyors who followed him, and then to the great railway, which brought people from all over the world to lay the tracks through the mountains.

The exhibit also talks about the mountaineers. Honourable senators might know that the Canadian Pacific Railway was built to add British Columbia to our wonderful nation. Also, the first president of the CPR, Mr. Van Horne, said, “I need more traffic. I cannot take this beautiful scenery to the public. I will have to bring the public to the Rockies,” and so he did. Therefore, Banff became our very first national park, only the third one in the whole world, and many followed.

Unfortunately, some of the mountaineers were a little careless as they were climbing up the mountains. By the way, we have pictures of women, in long skirts and high heels, roped up and climbing mountains. Some early climbers fell to their deaths because they did not know how to do it, though no women did.

The CPR said enough, and they hired two professional mountaineers from Switzerland. They kept that up right until 1951. One of the last to be hired stayed on. His name was Hans Gmoser and he was known as the “father of heli-skiing.” In part

of this exhibit is one of those little helicopters that takes people up for wonderful, virgin snow skiing. Perhaps honourable senators have done that themselves.

All of this and much more is told in this legacy — this wonderful legacy of a love story — and I do invite all honourable senators to come and see our beautiful “Gateway to the Rockies.”

### WORLD CONFEDERATION OF INSTITUTES AND LIBRARIES IN CHINESE OVERSEAS STUDIES

**Hon. Lillian Eva Dyck:** Honourable senators, from May 16 to 19 I was invited to offer opening remarks and give a panel presentation at the fifth WCILCOS International Conference of Institutes and Libraries for Chinese Overseas Studies in Vancouver.

The goal of WCILCOS is to pool institutional and individual resources and to advance Chinese overseas studies. This year's theme was “Chinese through the Americas.” This is the first time UBC has been invited to host the conference, and it was the first time it has been hosted in Canada.

The conference was jointly organized by Jeffrey Ferrier, Curator of the Center for International Collections at Ohio University Libraries, in collaboration with Eleanor Yuen, Head of the Asian Library at the University of British Columbia.

I gave a presentation at the conference entitled “Intermarriage between the Early Chinese Immigrants and First Nations Women” in which I outlined some of the discriminatory laws that targeted Chinese and First Nations/Indian peoples but which may have promoted intermarriage between them. The Chinese Immigration Act from 1923 to 1947 prevented Chinese men from bringing their families to Canada, and this brought about second marriages in Canada. Racial prejudice towards the Chinese made marriage to a white woman unlikely.

The Saskatchewan Labour Act of 1912 prohibited Chinese men from even hiring a white woman, but created employment opportunities for Aboriginal women. I speculated that Indian women, such as my mother, consciously chose to work for and marry Chinese bachelors as a way to get away from the reserve life of abject poverty and abuse. By marrying out, Indian women lost their Indian status, but status gave them few, if any, benefits. Marrying a Chinese bachelor, however, gave them economic benefits and an escape from the reserve. Moreover, marrying a Chinese man gave them and their children a way to hide their “Indianness” and thus be protected from racial discrimination. It was better to be Chinese than to be Indian.

The conference turned out to be a big success; more than 150 delegates from around the world gathered in Vancouver to present and discuss research topics and findings.

Honourable senators, history was made at the conference when two Chinese Canadian senators, Senator Poy and I, presented papers on the same panel. May 2012 was the most appropriate time for this conference because it coincided with the tenth anniversary of Asian Heritage Month, for which we can thank the Honourable Senator Vivienne Poy who initiated this annual



event. It was also the sixty-fifth anniversary of the repeal of the Chinese Immigration Act and the one hundredth anniversary of my dad's arrival in Canada from China.

Congratulations to the organizers of the conference for hosting such a successful event.

[Translation]

## C2-MTL

**Hon. Jean-Guy Dagenais:** Honourable senators, last week I had the great pleasure of attending the first C2-MTL international conference, which was held in the New City Gas complex, built in 1848 in the heart of Griffintown, the neighbourhood where I was born. Griffintown is known as the first industrial hub of the city of Montreal, and it long embodied all the creative and innovative potential of the past. Today, Griffintown, which is steps away from downtown Montreal and which you may have heard of, is set to carve out an important place in Montreal's modern history.

I was sent on behalf of the Government of Canada and Minister Denis Lebel to announce a non-refundable contribution of \$750,000 for C2-MTL, for hosting an event that will help turn Montreal into an international centre for creativity and innovation.

This three-day C2-MTL conference was a unique networking opportunity for all the country's creators, innovators, researchers, developers, thinkers and business leaders. I need not remind you of all the wonderful innovations that have been developed by Canadians, innovations that have gone beyond our borders and showcase Canadian creativity in major international projects. Just look at Hollywood or Las Vegas to see the success we have had there for the past few years.

From what I saw, the future looks bright. Among the conference attendees were surely some of our country's future financial stars.

It was particularly interesting to see seasoned business people and leading influential minds from around the world bring their experience and their passion to this new event.

[English]

In Canada, the Harper government is doing everything possible to create an environment to foster creativity and innovation, key factors in keeping Canadian businesses competitive in times of economic uncertainty. As all honourable senators are aware, innovative companies help to drive a strong economy.

[Translation]

We must not forget that Canadian companies face ongoing competition from emerging nations with rapidly growing economies, and their challenge is to never be outmatched.

Luckily, our government is approaching this challenge with programs in its 2012 economic action plan to help innovators drive a strong economy that is the envy of many industrialized nations. When people have ideas, they need encouragement and help getting a foothold in the market.

These measures are designed to enhance conditions that support the long-term growth of the regions and the small and medium-sized businesses that create jobs for people.

These measures will help businesses perform better and be more competitive.

• (1350)

Our participation last week in Griffintown is an excellent example of that.

Thanks to funding provided through the Business and Regional Growth program administered by Canada Economic Development, C2-MTL stands out through its innovative model, fresh approach, interactive exhibits, cutting-edge presentations, theatre performances and collaborative workshops.

Unfortunately, because of the turmoil in Montreal, this excellent event did not get as much media coverage as it deserved, which is a shame.

All the same, the Government of Canada is giving a boost to innovation because it believes more than ever in our ability to come up with new ideas and create jobs for future generations.

[English]

## DUKE OF EDINBURGH'S AWARD

**Hon. Catherine S. Callbeck:** Honourable senators, the Duke of Edinburgh's Award was founded in 1956 by His Royal Highness, Prince Philip, the Duke of Edinburgh. Participants, who are between the ages of 14 and 25, are meant to challenge themselves in a variety of ways. They pursue volunteer activities, skills development, physical activity and outdoor experiences. The program is meant to encourage personal discovery, growth, self-reliance, perseverance and responsibility.

The award program currently runs in 130 countries worldwide, and about 7 million young people have challenged themselves by taking this program. Here at home, the program has about 37,000 participants. Organizers project that the number of participants will continue to grow to 40,000 within the next two to three years.

Last week I had the pleasure to participate in the awards ceremony for the Duke of Edinburgh Bronze level ceremony in my home province of Prince Edward Island. Fifty-eight active and involved young people across the Island were recognized for their hard work and commitment to completing this program.

They set their own challenges and then worked with great enthusiasm until they accomplished their goals. In all, they performed community service, adventured in the outdoors, learned new skills and pursued physical activity.

The Native Council of Prince Edward Island along with other partners set up the P.E.I. Aboriginal Duke of Edinburgh Award program for Aboriginal youth on the Island. In 2010, 13 Aboriginal youth were recognized with their Bronze level award after a year of activities, which included service to elders

and community and cultural teachings, as well as personal skill and leadership development. The Aboriginal program is currently recruiting new participants for the bronze level, with a number of others working on their silver and gold levels.

Honourable senators, we can clearly see the benefits that come with participation: young people making a difference for themselves, for their communities, and for the world at large. I would like to congratulate all the young people, past and present, from my province and across the country who have successfully completed this challenge. I also want to commend all the youth who are currently undertaking this program. The rewards and benefits will last a lifetime.

Finally, I want to thank all the parents, the volunteers, the board and the organizers who put so much into this very worthwhile program. Through youth programs like this one, we can be sure that Canadian youth are becoming the responsible and productive citizens of tomorrow.

## ONTARIO LOTTERY AND GAMING CORPORATION

### SLOTS AT RACETRACKS PROGRAM

**Hon. Bob Runciman:** Honourable senators, as a senator representing the province of Ontario, I rise today to express personal concerns regarding a policy being implemented in my province that will result in thousands of job losses, primarily in rural Ontario, and devastate an industry that is key to the economic well-being of many smaller communities.

I am referring to the provincial government's decision through its gambling arm, the Ontario Lottery and Gaming Corporation, to cancel the Slots at Racetracks program, a highly successful partnership that has allowed the horse racing industry to sustain itself while providing significant economic benefits to rural economies and earning the provincial government more than \$1.3 billion in revenue every year.

This modest program, which provided the horse racing industry 20 per cent of its revenues from slots located at racetracks, cost the province very little, but managed to save a struggling industry.

The revenue generated from slots at racetracks led to larger purses and rejuvenated the horse business. Track operators, trainers and horse breeders all invested heavily in their businesses thanks to the stability provided by slots at racetracks.

This successful program is being ended because the province wants to concentrate casinos in city centres in what I believe is a blinkered effort to maximize revenue. My primary concern centres on the job losses that will result from this policy. Of the 60,000 jobs in the Ontario horse racing industry, it is estimated that at least 30,000 will be lost. These are good paying jobs, comparable on average to wages paid in the manufacturing sector. Many of those who will lose jobs have worked in the industry all their lives. Some are second and third generation racetrack workers who would be unlikely to find jobs outside this highly specialized industry.

It is not just the horse business, but the broader economy, particularly in small town and rural Ontario, that will be hit. Blacksmiths, veterinarians, truck dealers, crop growers and

hardware stores will all lose with the program's cancellations. Thousands of jobs outside the horse business itself will disappear. Contrast that with the government's promise of 2,300 new jobs and an estimated 4,000 service sector jobs generated by the OLG initiative to concentrate gambling at big city locations.

In a province staggering from the loss of manufacturing jobs, this initiative may achieve some short-term revenue gains, but its long-term, negative impacts on individuals, families, rural and small town Ontario, cannot be underestimated. I encourage the Ontario government to step back, enter into negotiations to preserve the existing Slots at Racetracks program, perhaps with amendments, and ensure that Ontario's horse racing industry remains economically sound.

## ROUTINE PROCEEDINGS

### RESTORING RAIL SERVICE BILL

#### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-39, An Act to provide for the continuation and resumption of rail service operations.

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

[Translation]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, at the next sitting.

(On motion of Senator Carignan, notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.)

[English]

## CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

### NATIONAL GOVERNORS ASSOCIATION WINTER MEETING, FEBRUARY 24-27, 2012—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the National Governors Association Winter Meeting, held in Washington, D.C., United States of America, from February 24 to 27, 2012.



• (1400)

[Translation]

## QUESTION PERIOD

### NATURAL RESOURCES

#### SHALE GAS PRODUCTION

**Hon. Pierre De Bané:** Honourable senators, my question is for the Leader of the Government in the Senate. A Natural Resources Canada working group recently concluded that the federal government should better regulate the shale gas industry. This group states that the public is not well informed and that the current regulations are based on old practices that do not consider the impact of shale gas production on groundwater.

I also note that the United States unveiled draft national regulations earlier this year on treatment of wastewater produced by hydraulic fracturing, the process used to extract shale gas.

My question for the leader is as follows: in light of the working group's conclusions and the frequent statements by the Canadian government about the importance of having the same rules as our southern neighbours, does the government plan to review these rules to better regulate shale gas extraction through hydraulic fracturing?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. As he stated in the question, and it is a fact, the Minister of Natural Resources is reviewing all of the rules and regulations regarding resource development.

As to the specific question on shale gas, I am not familiar with the recommendations from the group the honourable senator cited in the question. I will have to seek further information for a response to that particular industry.

[Translation]

**Senator De Bané:** I thank the leader. I take it that the government does not believe that it is necessary to better regulate shale gas production in Canada. However, the fact remains that Environment Canada currently has certain regulatory powers to govern the gas industry. According to the working group, the government must take an active role in raising public awareness of this industry, which has raised many concerns. The working group stated, and I quote:

The group believes that the public is not well informed, that there is an overwhelming need for more specific information. The public is concerned about these activities, especially hydraulic fracturing, and it is the government's mandate to find and communicate answers. Research will help reassure the public.

In light of the recommendations of the government-mandated working group, why is the government refusing to call for greater transparency from the companies that use hydraulic fracturing to produce shale gas?

[English]

**Senator LeBreton:** I thank Senator De Bané. He talks about a working group. The group that the government had mandated to look into the issue of shale gas and fracking is the Council of Canadian Academies. It was asked to undertake an independent expert assessment of the shale gas industry and the whole issue of fracking.

As I mentioned in my earlier response, I am not sure whether Senator De Bané refers to another group or whether in fact it is this group, but I will seek to get further information as to whether this group has reported or whether there is another group independent of this group.

### HUMAN RESOURCES AND SKILLS DEVELOPMENT HEALTH

#### CHILD POVERTY

**Hon. Jim Munson:** Honourable senators, Canada has a failing grade, and this question to the Leader of the Government in the Senate deals with child poverty. Just recently the United Nations children's fund, UNICEF, released a report stating that with a rate of 13.3 per cent we sit twenty-fourth out of 35 developed countries with regard to children in poverty.

It notes that we fare better than our neighbours to the south, but we rank behind the United Kingdom, Australia, New Zealand and most of northern Europe. Disappointingly, our child poverty rate is almost two full percentage points higher than Canada's overall poverty rate of 11.4 per cent. I think we can do better than that. Take our support of senior citizens, for example. The federal government invests upwards of \$40 billion in benefits for seniors but only a third of that amount, \$13.2 billion, in our children. It seems that we sometimes forget the old cliché that children are the future, but the report states that because children have only one opportunity to develop normally in mind and body, the commitment to protection from poverty must be upheld in good times and in bad. I could not agree more.

Does the leader agree with this?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. I am aware of the UNICEF report. I am also aware that Canada does significantly better than many countries in the world. As we have all acknowledged many times, we do in Canada have unique circumstances with regard to child poverty. We have unique circumstances with regard to families living in rural and remote areas. We as a government have taken many steps to alleviate the burden on Canadian families, and I will put them on the record.

We increased the amount that families in the two lowest personal income tax brackets can earn before paying taxes. We have removed the tax burden on low-income Canadians, due to this action. A typical family now has \$3,000 more in its pockets instead of in the files at Canada Revenue Agency.

We enhanced the National Child Benefit and Child Tax Benefit. We brought in the Universal Child Care Benefit, \$100 a month per child to children under six, helping 2 million children. Budget 2010 allowed single-parent families to keep more of this benefit after tax. The child tax credit is available for every child under 18, which provides more money to over 3 million children and removes 180,000 low-income families from paying income tax.

The Working Income Tax Benefit, better known as WITB, helps low-income Canadians over the welfare wall. When WITB was created in Budget 2007, it helped 900,000 Canadians in the first year.

Of course, I hasten to point out to honourable senators that, unfortunately, all of these measures that we have brought in to alleviate child and family poverty were voted against by the opposition in the other place.

**Senator Munson:** We are still twenty-fourth out of 35 developed countries. I know that the leader is reading from the statistics presented before her. I used to do that in my job way back when for our side. I understand that she has to enunciate a litany of things that the government has done, but surely to goodness she can accept the fact that this government can do better.

Among the specific recommendations from UNICEF was an increase in the Child Tax Benefit to at least \$5,000 per year from its current level of about \$3,500, and index that amount to inflation. From my perspective, this would have a substantial and immediate impact on Canada's child poverty rate.

Is this a measure the leader's government will consider? If not, what action can we expect to improve the well-being of Canada's children, aside from the work that the leader spoke about moments ago?

• (1410)

**Senator LeBreton:** Honourable senators, as I pointed out, there are areas in this country where there are some unique circumstances, but I also think that it is obvious that anyone who is involved in government, in elected politics or in politics as we are would seek to do everything they can to alleviate the problem of child poverty. I know members of my own party and my national caucus are regularly meeting with these groups and seeking ways to improve their lot in life.

As honourable senators would understand, we just received the UNICEF report a few days ago. I did notice the recommendation to increase the tax credit. It would have been nice to give us credit for setting it up in the first place, but I am sure officials in the government, the Minister of Health particularly and the Minister of Human Resources and Skills Development, are looking at these recommendations very seriously.

**Senator Munson:** Does the leader think that we can do better?

**Senator LeBreton:** Obviously, in a host of areas, all of us can. Not only on the issue of child poverty but also probably on a lot of issues we can strive to do better, and I think it is in the interest of all Canadians that all of us strive to do better, whether on issues of poverty or health. We are striving to do better, as

honourable senators know, on the issue of mental health. I would support any effort to strive to do better, and I am sure we are all the same, honourable senators.

## ENVIRONMENT

### GIANT MINE

**Hon. Nick G. Sibbeston:** Honourable senators, my question to the Leader of the Government is about the Giant Mine cleanup in Yellowknife. I was in Yellowknife last week or so and heard a number of concerns about this issue. The recent report from the Commissioner of the Environment and Sustainable Development focused on federal contaminated sites and their impact. One of the largest of these is the Giant Mine site in Yellowknife, where over 237,000 tonnes of arsenic trioxide are being stored in underground chambers. The plan is to freeze material in place. Monitoring and maintenance of the site will extend hundreds of years into the future and cost untold millions of dollars. Work on the site is currently in stage 7 of 10, development of a remedial strategy. This work is being carried out by Aboriginal Affairs and Northern Development Canada. Involvement of local communities and citizens in this process is critical if northerners are to be satisfied that they are being protected from these contaminants.

Will the government provide resources to the community of Yellowknife and to the nearby smaller Aboriginal communities of N'Dilo and Dettah and their citizens to fully participate in the process of developing a final remedial strategy? How and when will these resources be provided, and what will they consist of?

**Hon. Marjory LeBreton (Leader of the Government):** I believe Senator Sibbeston has asked about this issue before. The commissioner, I believe, has stated publicly that the government is making good progress on the Giant Mine project, but I will seek to get more information for the honourable senator. I do recall seeing a report where there was a comment that significant progress to improve the situation has been made, but I will get further details.

## ORDERS OF THE DAY

### PROHIBITING CLUSTER MUNITIONS BILL

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Fortin-Duplessis, seconded by the Honourable Senator Demers, for the second reading of Bill S-10, An Act to implement the Convention on Cluster Munitions.

**Hon. Elizabeth Hubley:** Honourable senators, five years ago I met a young woman from Cambodia named Vanna Minn. She was only 17 years old but was one of those special individuals who, though you know them only a short time, leave a lasting impression on you. Vanna told me that when she was a small



child, she was tending to her family's chickens when she inadvertently stepped on a land mine. The explosion claimed her right leg below the knee, and she has since had to wear a prosthesis. Before the accident, Vanna was a typical six-year-old. She was happy, full of life and dreamed of becoming a dancer. After, although she kept her upbeat spirit, she underwent many painful surgeries and, in the end, lost her ability to dance. Tragically, Vanna's story is like so many others. Land mine victims endure unspeakable pain and suffering. They are often left unable to work and become a burden to their families. After listening to Vanna's story, I was struck by the terrible realization that that land mine stole not only her leg that day but also her dreams for the future, a terrible loss for such a bright, young girl.

Honourable senators, as I speak today about Bill S-10, an Act to implement the Convention on Cluster Munitions, Vanna Minn and her tragic story will not be far from my mind, for although it was a land mine that took Vanna's right leg, it could just as easily have been a cluster bomb. Like land mines, cluster munitions are an indiscriminate and inhumane weapon. They have for too long destroyed the lives and livelihoods of innocent civilians, and for that they deserve to be forever banned. A majority of countries around the world agree and have supported the Convention on Cluster Munitions. Canada, too, pledged its support to this worthy cause and was one of the first countries to sign the convention on December 3, 2008, in Oslo, Norway. The convention was negotiated over a period of two years and was adopted by 107 states in Dublin, Ireland, on May 30, 2008. This was followed up, in December of 2008, with the signing of the convention. To date, 71 countries have signed the convention and another 40 have ratified it.

As honourable senators are aware, I have been following Canada's participation in the international campaign to ban land mines and cluster munitions for well over a decade. It is an issue I feel passionately about, as I know my colleague Senator Fortin-Duplessis does too. In her speech moving second reading of this bill, Senator Fortin-Duplessis highlighted some of the important facts about the use of cluster munitions and their consequences. As she said, 98 per cent of all cluster bomb victims are civilians, and many of these are children. An encounter with a cluster bomb is usually fatal, but sometimes it just ruins a life without taking it. Unexploded cluster bombs become like de facto land mines and will explode if disturbed, killing a person or damaging limbs and leaving victims with permanent scars and disabilities. Children are particularly vulnerable as they often mistake the small and brightly coloured bombs for toys.

• (1420)

Furthermore, as cluster bombs are imprecise and designed to cover large areas, they can wreak havoc on a community's economic livelihood. Unexploded cluster bombs can instantly turn what was once a productive orchard into no-man's land and render roads impassable, stifling trade and commerce. They are also an impediment to post-conflict rehabilitation and reconstruction, as they can prevent the return of refugees and can undermine peace building and humanitarian assistance programs. Ultimately, cluster bombs cause horrendous human suffering and, in the age of modern warfare, are becoming increasingly obsolete.

This is why Canada has never used or produced cluster munitions and why we are here today discussing this important legislation. Canada signed the convention and wants to become

party to it because we believe cluster munitions should be banned; or as the convention states, we are "determined to put an end for all time to the suffering and casualties caused by cluster munitions." In ratifying this convention, we are undertaking, as Article 1 of the convention says, to "never under any circumstances use cluster munitions, develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions; assist, encourage or induce anyone to engage in any activity prohibited to a State Party of this Convention."

Honourable senators, the language used in the convention is clear and unambiguous: "never, under any circumstances" means no exceptions, no excuses, no loopholes. It means an absolute ban. This is the intent of the convention - to eliminate the use of cluster munitions and thereby prevent the human suffering they cause.

With the introduction of Bill S-10, Canada is one step closer to final ratification of the treaty. The bill is comprised of 24 clauses.

Clauses 1 to 5 define the key terms and outline the purpose of the act.

Clause 6 prohibits Canadians from using cluster bombs, from developing, acquiring or possessing cluster bombs, from moving them from one state to another, from importing or exporting them, and from attempting, aiding, abetting or conspiring to do any of these actions. These reflect the prohibitions defined in Article 1 of the Convention on Cluster Munitions.

Clauses 7 to 12 then describe the exemptions and exceptions to the prohibitions specified in clause 6, while the remaining clauses focus on enforcement, penalties and regulations.

Honourable senators, it has been three and a half years since Canada signed the Convention on Cluster Munitions, so I am very happy to finally see ratification legislation. I think it is about time, and I thoroughly support Canada's move toward full participation as a state party to the convention.

Let me make myself clear: While I support ratification legislation, I cannot in good faith support this legislation as it stands before us. In fact, I am extremely disappointed with clause 11 in Bill S-10 and its interpretation of Article 21 of the convention. This extreme interpretation is so far from the original intent of Article 21 and the spirit of the treaty itself that it calls Canada's credibility as a signatory to the convention into question. If we are committed to banning cluster munitions, as this government has reassured this house time and again, then we must give serious consideration to the exceptions listed in clause 11 and their consequences for our military and for innocent civilians around the world. Moreover, I believe this proposed legislation could be strengthened by adding explicit prohibitions against investment in cluster munitions manufacturing and in the transit of cluster munitions through Canadian territory and on Canadian carriers. Canada will be setting an international precedent with this legislation and, therefore, it is essential that we craft a bill that truly reflects our values and sets a high standard for humanitarian protection.

With Bill S-10, the government should be committing itself and all Canadians to upholding the principles of this convention, both in spirit and in practice at home and abroad. We should be

agreeing in no uncertain terms to never use cluster bombs and to never help or encourage anyone else to use them either. Sadly, that is just not the case, for while the exemptions and exceptions listed in clauses 7, 8, 10, and 12 are legitimate, as they are allowed under Article 3 of the convention, those listed in clause 11 are another matter, as I will explain in a moment.

The purpose of clauses 7, 8, 10, and 12 is to allow Canadian Forces and peace officers to engage with cluster munitions in a way that furthers the aims of the convention — for example, to allow Canadian Forces to possess cluster bombs in order to be trained in detection and destruction techniques. Similarly, clause 12 is a practical exception that would ensure that a police officer who, during the course of his or her duties, comes in contact with a cluster bomb would not be held liable for taking possession of that bomb for the purpose of its safe disposal.

Honourable senators, while these exceptions make practical sense, the exceptions listed in clause 11 should give us all cause for serious concern. As it now stands, clause 11 allows Canadian Forces to do things during a combined operation that they would not be allowed to do at home or on a Canadian mission. Among other things, it would allow a Canadian commander in charge of American troops to authorize the use of cluster munitions; or, if that Canadian commander is in charge of American troops but does not have exclusive control as to the choice of munitions, he or she may expressly request the use of cluster munitions. Furthermore, a Canadian pilot on exchange or secondment with American Forces would be allowed to use, acquire, possess and transfer cluster munitions. This means he or she could be responsible for actively dropping cluster bombs while on a mission. Finally, subclause 11(3) even goes so far as to allow Canadian Forces to aid, abet or counsel troops of states not party to the convention to use or acquire cluster munitions and to conspire with them in pursuit of those ends.

Unlike the other exceptions listed in clauses 7, 8, 10, and 12, the exceptions contained in clause 11 are not only prohibited under the convention but also a violation of the purpose and spirit of the convention. If we allow this bill to pass without amending clause 11, we could be putting our Canadian Forces in a position where they could be directly involved in the use of cluster munitions and, consequently, the suffering of innocent civilians. I believe that putting such a burden on the men and women of our military is both unconscionable and unnecessary. While Canada must be able to engage in combined operations with states not party to the convention, this does not mean that we must sacrifice our principles or our responsibilities under the convention.

While military interoperability between states party to the convention and those not party is clearly allowed under Article 21 of the convention, which is known as the “interoperability clause,” the exceptions listed in clause 11 of Bill S-10 go above and beyond the provisions of Article 21. They are an extreme interpretation and are not in keeping with the spirit of the treaty. Article 21 was included in the Convention on Cluster Munitions because Canada and a few other like-minded countries, such as Australia and the United Kingdom, recognized the need for a clause that would ensure that states party to the convention could not be held liable for the actions of a state not party to the convention while the two were engaged in a combined military operation. As our modern military endeavors are multilateral in nature, Canada recognized that our forces would need guidance

in working with allies who have not signed the convention and who may continue to use cluster munitions, such as the United States and some NATO allies including Estonia, Poland and Turkey.

• (1430)

However, while Article 21 allows state party to the convention to engage in military cooperation with states not party to the convention, it still does not allow a state party to the convention to itself use or request the use of cluster munitions. According to the analysis of Human Rights Watch, in conjunction with the Harvard Law School International Human Rights Clinic, Article 21 should be interpreted as follows:

... to allow participation in combined military operations only when it does not amount to assistance with acts prohibited by the convention.

In other words, Article 21 permits military interoperability, but it is not an excuse for a state party to the convention to ignore its obligations and participate in activities that are banned by the convention. Article 21 should therefore be interpreted as narrowly as possible.

Frustratingly, however, Bill S-10 interprets Article 21 as a loophole so large you could drive a tank through it. According to clause 11, Canadian forces are not only permitted to use cluster munitions while participating in a combined operation, but may also freely support and encourage their use. This is clearly in contradiction to clauses 1, 2, and 4 of Article 21, for not only does Article 21 contain strict prohibitions on the development, transfer and use of cluster munitions, but it also contains two provisions for positive obligations: encouraging states not party to the convention to “ratify, accept, approve or accede to the Convention with the goal of attracting the adherence of all States to the Convention” and notifying the governments of all states not party to the convention of our obligations under the convention. This is to say that when engaging in combined operations, a state party to the convention not only has a responsibility to inform its allies that it will not under any circumstances use cluster munitions, but it should also encourage those allies not to use cluster munitions.

Whenever we talk about Article 21, it is essential that we never lose sight of the ultimate purpose and goal of this convention: to universally ban cluster munitions and eliminate the suffering they cause. As Human Rights Watch argues:

Allowing an exception to the prohibition on assistance could seriously undermine this aim. Cluster munitions and the harm they cause will never be eliminated if Article 21 is understood to permit parties to the convention to assist with acts prohibited under the convention. Thus, the prohibition on assistance must apply at all times, including during combined military operations.

Honourable senators, Article 21 exists to ensure the continued viability of combined military operations between states party to the convention and those not party to the convention; it was never intended to be a loophole that would allow a state to ratify both the Convention on Cluster Munitions and, at the same time, use cluster bombs either directly or by proxy.



When comparing Canada's proposed legislation with other countries' ratification legislation, it becomes clear that Bill S-10 contains an extreme interpretation of Article 21. Although Canada was one of several countries that worked together to ensure Article 21's inclusion in the treaty, Canada is the only country to interpret Article 21 in a way that would permit its soldiers to use cluster munitions. Other countries, including Australia, New Zealand, Belgium, and France allow combined operations, but do not, under any circumstances, allow their forces to actively use or request or encourage the use of cluster munitions. New Zealand's legislation, for example, states:

A member of the Armed Forces does not commit an offence merely by engaging, in the course of his or her duties, in operations, exercises, or other military activities with the armed forces of a State that is not party to the Convention.

They use the term "merely by engaging" because they interpret Article 21 as remaining subject to Article 1 of the convention and all of the prohibitions it contains. This is to say that a member of New Zealand's armed forces would never be allowed to do anything during a combined operation that is prohibited by Article 1 of the convention. However, if during that combined operation the armed forces of a state not party to the convention were to itself use a cluster bomb, New Zealand's armed forces could not be held liable for that action.

Moreover, France also interprets Article 21 in a way that allows combined operations with states not party to the convention, while at the same time expressly prohibiting any French soldier from using, requesting or transporting cluster munitions while participating in a combined mission. Further to this, France has also followed through with the positive obligations contained in clauses 1 and 2 of Article 21, most recently prior to the NATO mission in Libya, when it informed its allies of its obligations as a state party to the convention and encouraged all states not party to join the treaty.

Belgium, too, has been clear on its interpretation of Article 21. In October of 2009, the Belgian Minister of Foreign Affairs stated:

Military cooperation with third countries is possible, particularly international military operations, but the responsibilities are clearly delineated. In the case of Belgium and for other signatories, the rule is that we will not use cluster munitions and we will not assist States with a view to use them.

Australia's ratification legislation, however, has been stalled in their Senate for over a year due to public outrage and lengthy debate. Although their legislation clearly does not permit Australian forces to use or request the use of cluster munitions during combined operations, it does include a clause that would allow states not party to the convention to stockpile cluster munitions on Australian territory. This exception triggered significant controversy and debate when the bill was referred to the Australian Senate Committee on Foreign Affairs, Defense and Trade and led international organizations and civil society groups to label Australia's legislation as the worst in the world. Unfortunately, Australia has now lost that title to Canada and our Bill S-10, which is today considered the weakest legislation yet.

For a country that once led the world in the campaign to ban landmines, setting a new standard in international cooperation and humanitarian achievement, this is a terrible blow. What happened? Where did we lose our way? In her speech moving second reading of this bill, Senator Fortin-Duplessis argued that in crafting this implementation legislation the government wanted to "achieve the objective of banning cluster munitions" but was also concerned with striking "a fair balance between humanitarian and security considerations."

Honourable senators, make no mistake, I, too, support Canada's absolute right to defend itself and to participate in combined military operations that are essential to domestic and international security, but I am unwilling to accept the suggestion that this requires a watering down of our treaty obligations and a lowering of our national standards. It seems to me that this notion of balance has been blown way out of proportion and has obscured our view of the real humanitarian issues at stake.

Article 21 is in and of itself the balance between humanitarian goals and international security that the government is looking for. Article 21 allows Canada to continue to participate in combined military operations with the United States and NATO just as we have always done. It protects our Armed Forces from any liability for prohibited activities states not party to the convention may undertake, even if Canada is closely involved in those activities.

• (1440)

For example, if while on a combined mission with the United States our Canadian Forces were to find themselves under heavy enemy fire and then call in American troops for air support, Canada would not be liable if the Americans were to respond by choosing to drop cluster munitions. In that instance, Article 21 would still prohibit Canada from specifically requesting that the United States use cluster bombs, but at the same time, it would also protect Canadians from liability if the Americans used cluster bombs of their own volition. We cannot be responsible for what others do while on a combined mission; we can only be responsible for ourselves, and that is exactly what Article 21 carefully underscores.

Our Armed Forces should be clear on their terms of engagement whenever they participate in a combined mission. They need to know that Canada does not support the use of cluster munitions under any circumstances and that they are never to knowingly request or participate in their use.

Our men and women of the Canadian Forces are principled people. They perform their duties according to the highest possible standards and with great integrity. It would therefore be incredibly unfair to them on the one hand to tell them that Canada does not use cluster munitions because we believe cluster munitions to be an inhumane weapon of war, while on the other hand advise them that it is okay for them to aid and abet American forces to use the cluster bombs. This is an incredibly morally dubious position for Canada to take and would be unfair to our soldiers. Our Canadian Forces should not have to ever be complicit in the use of cluster munitions or responsible for the suffering they cause. If we believe that cluster munitions are a

terrible weapon that should be universally banned, then we should not burden our military with having to use them while on a combined operation.

Senator Fortin-Duplessis spoke earlier about how “it is important that our men and women in uniform not have to accept unnecessary responsibility when carrying out their duties.” I do not believe for a minute that asking our military personnel not to do something abroad that they would never be allowed to do at home amounts to “unnecessary responsibility.” Rather, I think it would be more burdensome on them if we required them to give in to peer pressure and knowingly be involved in the use of a weapon that causes terrible pain and suffering.

Moreover, I am concerned about Senator Fortin-Duplessis’ comments about the government’s intentions to put policies in place that would prohibit Canadian Forces on exchange or secondment from using or training with cluster munitions. I do not accept the notion that official policies will be adequate, when clause 11 of Bill S-10 clearly allows Canadian Forces on exchange or secondment to use cluster munitions. Having an official policy within the Department of National Defence that negates this exception is not good enough, as policies are always subject to change.

If the government is serious about not allowing Canadians on exchange or secondment to use cluster munitions, as I believe it should be, then that prohibition should be clearly stated in Bill S-10.

Honourable senators, we should not be sending mixed messages to our soldiers and our civilians. If our government and our military think that in some circumstances we may need to keep our options open or be able to use or request the use of cluster munitions during a combined operation, then we should never have signed the convention in the first place and we should not be pursuing this implementation legislation now. There is no room for flexibility here. Either we believe cluster munitions are inhumane and we therefore accept the terms of the treaty, or, very simply, we do not and consequently should not ratify the convention.

Ultimately, though, I believe this government does support the goals of this treaty, and that is why I think we must be very careful with how we interpret Article 21. Article 21 allows our Armed Forces to continue to engage in combined military operations, but it was never meant to be a backdoor escape clause, and we should not interpret it that way.

For an example of a successful treaty that has almost universalized the ban on a terrible weapon without compromising military interoperability, we need to look no further than the Ottawa treaty banning land mines. In the 15 years since this treaty was first signed, 159 countries have ratified or acceded to the convention, over 44 million land mines have been destroyed, and casualties have decreased.

At the same time, Canada and our allies have not had any difficulties in working together with the United States on combined military operations, despite the fact that the United States is not party to the land mines convention. What is more, we have done so even though the mine ban treaty does not contain an interoperability clause equivalent to Article 21.

Land mines are no longer widely used, and the few countries that still do use them face global condemnation. We have successfully stigmatized this weapon, and that is precisely what we hope will eventually happen with cluster munitions.

However, in order to do so, I believe we need to do our part and further strengthen Bill S-10. In addition to modifying clause 11, we should include an explicit prohibition on the direct and indirect investment in the manufacturing of cluster munitions. Five states — Belgium, Ireland, Luxembourg, New Zealand and Italy — have already enacted this type of legislation, and Canada should too. The convention prohibits states party from developing, producing, or assisting to develop or produce cluster munitions. Nineteen states, including Australia, Croatia and the Netherlands, have interpreted investment as a form of assistance and therefore consider it to be prohibited under the convention.

Explicitly prohibiting investment in cluster munitions manufacturing would set clear guidelines for Canadian financial institutions. In fact, during a meeting on this subject with Mines Action Canada in February of 2010, Canadian financial institutions welcomed the idea of clear legislation that would help them to craft their policies. Our financial institutions have recognized the problem of cluster munitions and are moving towards disinvestment. By including a strict prohibition on investment in clause 6 of Bill S-10, we can ease this process.

Moreover, I believe we can also further strengthen Bill S-10 by including a clear prohibition on the transfer of cluster munitions on Canadian carriers and through or within Canadian territory. As it stands, clause 11(2) of the bill would allow American forces to move cluster munitions through Canadian territory by land, sea or air. It also allows Canadian-owned vehicles to be used to transport cluster munitions.

Once again, this undermines the purpose and spirit of the treaty. Other countries, such as Austria and Germany, have recognized this and have enacted ratification legislation that specifically prohibits these transportation scenarios. Canada, too, must make it absolutely clear that we will not provide any assistance in the use of cluster munitions and, as such, will not be involved in their transportation. These two changes would be in keeping with the spirit of the convention and would certainly have a positive impact on reducing the global proliferation of cluster munitions.

Honourable senators, let us not forget that this is the purpose of the convention and this legislation we are debating now, to ban the use of cluster munitions and forever eliminate the harm they cause. I am disappointed that Bill S-10 does not reflect this to the extent that it could and that it should. Bill S-10 should be an ironclad commitment from Canada to uphold the convention on cluster munitions in its entirety and according to its highest standards and principles, but as it stands now, this is not the case. Bill S-10 contains so many exceptions to the convention’s prohibitions that it really begs the question as to why we are bothering with ratification legislation at all.

• (1450)

If we are determined to never use cluster munitions and to work toward their eventual elimination, then we certainly should not be allowing our Canadian Forces to use them while on a combined mission.



Article 21 is not a loophole. We should not be interpreting it to mean that, while participating in a combined mission, Canada can abandon it. If we did so, we would be contributing to the proliferation of cluster munitions, which is the exact opposite of what we have been trying to do for the past four years with this international treaty.

With so many countries currently debating differing interpretations of Article 21 and its implications for their ratification legislation, it is imperative that Canada set a high standard and create a strong international precedent. The world's eyes are upon us. In order for this convention to be as successful as the land mine treaty, which is something we can be proud of, we again have to take on a leadership role and prove to the world that it is possible to both uphold the principles of the convention and continue to participate in combined military operations.

As such, this bill requires further debate and deep deliberation. The Standing Senate Committee on Foreign Affairs and International Trade should take its time with this legislation and hear from a variety of expert witnesses. Clause 11, especially, should be carefully scrutinized and amended. Moreover, specific prohibitions against investment in cluster munitions manufacturing and the transportation of cluster munitions through Canadian territory and on Canadian carriers must be considered.

Cluster munitions are recognized by a majority of countries around the world as an inhumane and obsolete weapon, an outdated relic of the Cold War. They should be safely gathering dust in a museum somewhere, alongside landmines and mustard gas, and not littering farmers' fields, primed to kill or maim unsuspecting children.

With the Convention on Cluster Munitions, we have an incredible opportunity to forever eliminate these weapons and the terrible harm and suffering they cause. That is why this convention is so important and why we must make Bill S-10 the strongest legislation it can be.

Children like Vanna Minn should never again have their dreams violently torn from them by a landmine or a cluster bomb.

**Hon. Roméo Antonius Dallaire:** Honourable senators, this bill is so rife with ethical, moral and legal dilemmas for Canadian field commanders that it must be reviewed.

(On motion of Senator Dallaire, debate adjourned.)

## BUDGET 2012

### INQUIRY—DEBATE ADJOURNED

On Inquiry No. 3, by the Hon. Claude Carignan (Deputy Leader of the Government):

That he will call the attention of the Senate to the budget entitled, *Economic Action Plan 2012: Jobs, Growth, and Long-Term Prosperity*, tabled in the House of Commons on March 29, 2012, by the Minister of Finance, the Honourable James M. Flaherty, P.C., M.P., and in the Senate on April 2, 2012.

**Hon. Don Meredith:** Honourable senators, it is my pleasure today to rise and speak on Canada's Economic Action Plan for 2012. The future of our country is laid out in the blueprints of this master plan. Jobs, growth and long-term prosperity are where we are continuing to head.

Globally, the last few years have not been as kind as earlier years. Many countries around the world have been negatively affected by the global downturn, but somehow Canada has fared quite well, considering the circumstances it has faced.

How has this happened, and how have we been able to avert what other countries have fallen victim to? The answer is by considerable restraint and hard work by all Canadians. We have avoided many pitfalls that other countries could not avoid. In March, the Prime Minister laid out a firm plan in our most recent budget and crafted a solid and pragmatic approach to our country's future. This is no easy task, since there are so many variables involved in creating a fiscally sound budget and shielding our country from being devastated as we have seen happen to other countries.

Our Conservative government has been steadily building a Canada that will be good for our future, protecting us from many dangers of instability. When we compare Canada with the countries that were affected by the global recession, we can see that we have fared much better than anyone else.

The 2012 Economic Action Plan, along with our previous plans, is one of the main reasons why we are doing much better than most countries. Our focus on the economy and jobs has positioned us in such a way that we are shielded from many other potential problems.

Honourable senators, Canada has emerged as one of the world's top-performing industrialized countries, with the best rate of job growth in the entire G7 since 2006. This has not come about by fluke or luck. We have done this through calculated risks, hard work and measured discipline.

We have been able to tap resources that other countries may not have at their disposal. One of our major strengths is our people. Canada has a population that is very diverse. We may have only one-tenth of the population of the United States, but we have an educated, experienced and adaptive populous.

Honourable senators, the Toronto area is a vibrant community that attests to this diversity. With people from around the world living in this wonderful city, counting at 5.5 million and growing, we realize that all of our different outlooks on life contribute to making our communities as successful as they are. When it comes to solving any problem, we always have more than one solution. We have formed our Canadian communities from every country around the world. Our perspectives are all different, yet we are all working together for the betterment of Canada.

One example of improving our situation is by fixing our labour concerns with the Temporary Foreign Worker Program. The Conservative government will first focus on our in-house expertise before searching abroad.

We will ensure that the best candidates come to work and live in Canada, too. To help potential immigrants come to Canada, we are also working to improve the Foreign Credential Recognition Program to allow people who want to work in their field of expertise the opportunity to do so.

The Conservative government also believes in innovating, investing and helping Canadians to be better. That is why we have invested over \$1.1 billion for world-class research and development, and have encouraged entrepreneurship. Can I get an “amen”?

**An Hon. Senator:** Hear, hear.

**Senator Meredith:** On top of that, we have invested \$500 million for venture capital, leading to increased public and private research collaboration. We aim to continue to invest in training and local community infrastructure, and giving Canadians more opportunities for their future.

We realize that one sure way to keep the economy going strong is by keeping our taxes low. That is why our government has cut taxes over 140 times since 2006 and reduced our overall tax burden to levels we have not seen in over five decades. We have been able to completely remove over 1 million low-income families, individuals and seniors from the tax rolls. This is greatly appreciated by many people in the Toronto area.

Honourable senators, by lowering our taxes, we have provided over \$3,100 in tax savings for a typical Canadian family. This means that, with all the tax cuts and other incentives, whether through personal consumption, excise or business tax, we have been able to put more money into more Canadian pockets.

If we take a look at business investment, our country has the lowest tax rate in the G7. In fact, *Forbes* magazine has ranked Canada as number one in the world for businesses to grow and create jobs, partly due to our low tax plan. By lowering our business taxes to 15 per cent back in 2007, we have seen Canada as a powerhouse, advancing by leaps and bounds compared to other countries.

We have not stood by and been complacent; we have been competitive. We have also ensured that small businesses continue to flourish by reducing the tax rate from 12 to 11 per cent. In Toronto, with so many families who run establishments, this means the difference between thriving and barely staying open. We prefer to see flourishing and crime-free communities within the GTA.

• (1500)

Honourable senators, the World Economic Forum also ranked Canada's banking system as the soundest in the world for the fourth year running, and those on the Standing Senate Committee on National Finance can certainly attest to that. This is also part of what keeps our economy robust: a strong and secure banking system.

Canada has a unique approach when it comes to thriving amid global economic hardships. We really have come out unscathed when we look at what has happened to other countries in the last few years and what continues to be the case for many today.

Honourable senators, Toronto is one of the largest cities in Canada. We have the largest airport in the country, outnumbering the next biggest airport — that being Vancouver International Airport — with nearly two times the number of passengers. According to last year's numbers, over 33.4 million passengers passed through Pearson. This means we have a flurry of activity in our own Toronto airport. It is a welcoming gateway to the world, welcoming people to see our country, as well as a portal to allow residents of Canada to see what the world has to offer.

This is not just about travel, but about trade. We see this as a way for Canada to intensify new and deeper relationships, particularly with dynamic and fast-growing economies. We will also offer support to Canadian exporters by extending the provision of the domestic financing through Export Development Canada.

Honourable senators, as we see, Toronto is not just a random tourist hub for Canada. People who are starting their new lives as immigrants realize that their freedom to live and prosper can be found in this country, especially in Toronto. I am a little biased.

Residents in Canada realize what the government is doing for them, and for this they are grateful, grateful for the opportunities and for the protection that is offered. This is reflected in the numerous ethnic communities found throughout the GTA. We have Chinatown, Koreatown, Greektown, Little India, and do not forget Little Jamaica. I will not name the other countless communities since there are so many vibrant enclaves representing this place that so many of us call home.

Each little centre reflects the strength of Toronto. These people from the GTA bring the best from their home countries and transplant their unique way of life here. People live in harmony here and solve problems together. This is how I see Canada.

All of us have a fresh outlook on problem solving and how to live our lives. With help from the Conservative government, our country will remain energetic and prosperous. We believe in having a strong foundation for continued job creation and economic growth. We are doing this by extending the hiring credit for small businesses for one year. What the Economic Action Plan proposes is to invest \$205 million to help up to 536,000 small business employers, and also an additional \$50 million over two years for the Youth Employment Strategy. Currently, the government invests over \$330 million for the Youth Employment Strategy. Last year alone, the strategy nearly helped 70,000 youth build on their experience and work skills.

Honourable senators, I believe they are the future of this country. We must always find ways to engage, encourage and empower our youth.

We are also investing over \$30 million over three years to help Canadians with disabilities and creating a panel for labour market opportunities for persons with disabilities. On top of the job creation, honourable senators, we are also ensuring that vital social programs and services will be there for our next generation. We are responsibly adjusting our programs and services such as health care, education and other services so they are predictable, fair and sustainable for all Canadians. This is much appreciated by all of us.



Honourable senators, in conclusion — and in clergy terminology — I am coming down. I would like to reiterate that the Conservative government is ensuring that Canada's economic advantage remains strong today as well as into our future. We will continue to encourage entrepreneurship, innovation and world-class research. We will continue to expand trade to open new markets, thus further improve our conditions for business investments, and we will continue to provide proper training, better infrastructure and more opportunities to Canadians. We will also continue to improve our social programs and services for Canadians, making sure that they run even more efficiently and effectively. Our lively communities across the GTA and across the country will continue to benefit from our approach to the Economic Action Plan of 2012.

Honourable senators, let us put aside our differences and put the interests of Canadians first by fully supporting the Economic Action Plan.

(On motion of Senator Carignan, debate adjourned.)

[Translation]

#### **JOBS, GROWTH AND LONG-TERM PROSPERITY BILL**

SELECT COMMITTEES AUTHORIZED  
TO REFER PAPERS AND EVIDENCE ON STUDY  
OF SUBJECT MATTER OF BILL C-38  
TO NATIONAL FINANCE COMMITTEE

**Hon. Claude Carignan (Deputy Leader of the Government),** pursuant to notice of May 29, 2012, moved:

That the papers and evidence that have been or will be received and taken, and work that has been or will be accomplished, by the committees to which were referred on May 3, 2012, the subject-matter of certain elements of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, except documents and other material relating to in camera meetings of these committees, be referred to the Standing Senate Committee on National Finance for the purposes of its concurrent study on the subject matter of all of the said Bill.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I would like to ask a question. How will all of the information gathered be sent to the Finance Committee? Will every committee that reviewed certain parts of the bill have to prepare a report? Will a summary analysis be done? Or will the Finance Committee have to sort out all of the information and spend more time going over everything and all of the evidence that was heard by the five committees that examined various parts of the bill?

**Senator Carignan:** Honourable senators, my understanding of the motion to refer the matter to committee is that each committee must present a report on the part it examined, but with this motion, the evidence heard by the various committees

will also be referred to the Finance Committee so that it can take that evidence into consideration and identify any points that it would like to explore further.

**Hon. Fernand Robichaud:** Are you are saying that every committee that was given the mandate to study certain parts of the bill will have to report to the Finance Committee?

**Senator Carignan:** Honourable senators, I misspoke. Upon completion of its study, every committee will report to the Senate, but the transcripts of all the testimony and the evidence submitted to each of the committees will be referred to the Finance Committee.

**Senator Robichaud:** That is not what I understood. Thank you. The committees will therefore report to this chamber.

**Hon. Roméo Antonius Dallaire:** Honourable senators, the motion indicates that some information will be provided in camera, but if the proceedings were public, can we assume that the information will be available?

**Senator Carignan:** Honourable senators, the motion excludes documents and other material relating to in camera meetings. Thus, all papers received and evidence taken at public meetings will be referred to the committee.

(Motion agreed to.)

• (1510)

#### **CRIMINAL CODE CANADA EVIDENCE ACT SECURITY OF INFORMATION ACT**

BILL TO AMEND—SECOND REPORT OF SPECIAL  
COMMITTEE ON ANTI-TERRORISM ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Brown, for the adoption of the second report of the Special Senate Committee on Anti-terrorism (Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, with amendments and observations), presented in the Senate on May 16, 2012.

**Hon. Roméo Antonius Dallaire:** Honourable senators, about this committee's report, I would like to say that I expect this bill to be approved in the very near future.

[English]

Honourable senators, before we adopt the report of the Special Senate Committee on Anti-terrorism on Bill S-7, I want to add a few words in support, for the public record.

The Anti-terrorism Committee, under the commendable leadership of Senator Segal and Senator Joyal, worked expeditiously, yet thoughtfully, on the bill before us. This report captures well the various areas of concern raised in the testimony, especially regarding the recruitment and possible employ of youth under the terrorism rubric.

[ Senator Meredith ]

I feel, however, as others do, that our full capability of meeting the requirements of reviewing this bill remain hampered in the security area by the fact that we do not have access to classified material. Not having access to that classified material limits our ability to assess where this fits in the overall security envelope. More and more, it is becoming evident that in this time of complex security scenarios, parliamentary access to security material is essential in order for us to meet some of these very demanding, even ambiguous at times, and complex bills for our security.

Should this report pass now, which I hope it will, tomorrow I shall be making more in-depth remarks at third reading of the bill.

I thank my fellow committee members and the committee's staff for the work they did on this bill. I thank Senator Peterson, in particular, for sitting in on my behalf occasionally.

I, too, encourage honourable senators to read the observations appended to this bill, which are of significance to its interpretation and evolution surely in the other place. I do encourage honourable senators to support this report at this time.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill, as amended, be read the third time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[Translation]

## OFFICIAL LANGUAGES ACT

### BILL TO AMEND—SECOND READING— DEBATE SUSPENDED

**Hon. Maria Chaput** moved the second reading of Bill S-211, An Act to amend the Official Languages Act (communications with and services to the public).

She said: Honourable senators, I am proud to rise today to speak to Bill S-211, An Act to amend the Official Languages Act, Part IV, communications with and services to the public. This bill is truly the result of many years of work.

I previously introduced Bill S-220, which, after being debated in the Senate several times, died on the Order Paper when the May 2011 federal election was called.

During the debates on this bill, I listened carefully to my colleagues' comments and questions. Today, I present to you a well thought-out bill that maintains the essential sections of Bill S-220.

At our office we conducted quite a bit of research and analysis that confirm the merits of this bill for all official language minority communities. The Fédération des communautés francophones et acadienne and the Quebec community groups network support this bill.

The content of this bill was in fact greatly enhanced by contributions from the many local and national organizations that I consulted and have had direct contact with over the past few years. Since last May, I have also maintained regular contact with the office of the President of the Treasury Board, which is of the opinion that this bill addresses a serious problem and a number of its own concerns.

I know that this bill, despite its importance and the urgency of the situation, is subject to the political process. All I can say today is that I have been open and honest, my discussions have been respectful and I am presenting to you today a document that has been worked and reworked in good faith with a view to making a much-needed amendment to Part IV of the Official Languages Act.

Before I go over the main points of Bill S-211, I would like to pay tribute to the late Senator Jean-Robert Gauthier. Thanks to his hard work, Part VII of the Official Languages Act was amended in 2005 in order to give communities an indispensable tool for their development.

Part VII of the act is recognized by official language minority communities as having played a major role in the recognition of their vitality. The communities have become major players in the development and implementation of these positive measures.

Bill S-211, which I am speaking to today, is the natural next step in the evolution of the Official Languages Act because it updates Part IV of the act, which governs the provision of services in both official languages by federal institutions. This update is needed because the context in which official language minority communities exist has changed since the regulations that give effect to Part IV were made in 1991. It is high time the act reflected the new demographic, social, legislative and legal context in order to protect what official language communities have achieved and ensure their long-term viability. This is urgent because of the looming threat of assimilation.

The current Part IV of the Official Languages Act states that federal institutions must ensure that the public can communicate with their head offices and receive services where the use of the language creates significant demand. This is the basic reason why official language communities have the right to receive services in their language. They must prove that significant demand exists as defined by the regulations. The regulations made under Part IV list 18 different circumstances under which significant demand is deemed to exist in a given region. Under each circumstance, either the linguistic minority population must reach a certain numeric threshold or a certain percentage of the demand for services must be in the minority official language. No other possibility is contemplated.



This regulation is out of date and, as I will explain shortly, hurts official language minority communities. Following the 2001 census, this method of calculation resulted in a reduction in French-language services in 100 federal offices across Canada. In Manitoba, for example, the francophone community lost seven federal offices after the last decennial census, while Saskatchewan lost three offices and Newfoundland and Labrador lost four.

Many of the affected communities were thriving. They had well-attended schools, active associations and a vibrant culture. The closure of offices and the elimination or reduction of services in the language of the francophone or anglophone minority are not necessarily indicative of the region's demographic trends. Rather, this is a sign that the government's method for determining significant demand is not working.

• (1520)

Despite its good intentions, the government is undermining official language communities instead of enhancing their vitality.

It is not difficult to understand why the legislation is inadequate. The current Part IV does not address the main factors that have redefined the image of official language communities in the past 30 years. The legislation does not take into account exogamy, immigration, or even the vitality of communities. Federal institutions decide whether or not to provide services in the minority official language without taking into consideration the main factors that characterize the region and the communities.

Bill S-211 proposes two changes in that regard. First, the bill seeks to broaden the criteria definition used to determine the size of the francophone or anglophone minority in a given region. At present, the calculation of population figures is based primarily on the criterion of "first official language spoken" by the inhabitants of the region. This bill proposes that it be based instead on the number of people capable of communicating in the official language in this same region.

The current definition is restrictive because it does not take into account the vast majority of children of exogamous marriages who have the majority language as their first official language spoken. For example, if a child speaks both official languages, but uses English more often at home because one parent does not speak French, the child will be considered an anglophone even if he or she attends French school and regularly speaks French. Exogamous marriages are part of the reality of official language communities. We must ensure that the legislation reflects this reality.

The Supreme Court understood this reality in *Beaulac*, in which it explained, and I quote:

A simple approach, such as maternal language or language used in the home, is inappropriate *inter alia* because it does not provide a solution for many situations encountered in a multicultural society and does not respond to the fact that language is not a static characteristic.

If the federal government refuses to understand this reality and adapt its regulations accordingly, I am convinced that this will have a devastating effect on those communities.

In my province of Manitoba, 105,450 people speak French, but in the government's calculations to determine significant demand, it recognizes only 43,120.

Not everyone who speaks the minority official language will demand services in that language. I would argue, however, that the real demand lies somewhere between those two poles and that some flexibility is needed in order to leave the choice up to the members of a community. The legislation and regulations, as they are currently worded, do not allow for any consideration under any circumstances of whether part of the population can communicate in the minority official language, even though that is not their first official language.

Basically, this bill suggests that where an official language minority community exists, many people might belong to it, but they do not necessarily meet the very restrictive and outdated criteria of the current system. The current act and regulations paint an unclear and inaccurate picture of the real size of the community. The legislation needs to recognize this reality so that the government can then make regulations that take this into account.

Secondly, under the current regulations, the government is not required to take into account the particular characteristics of the francophone or anglophone minority in a given region before determining whether services should be offered in that community's language. This bill makes this consideration mandatory by stipulating that the government is to take into account the particular characteristics, including the institutional vitality, of the linguistic minority of the area served.

This change is necessary because the current calculation method, based largely on the relative size of the francophone or anglophone population, places an unfair burden on official language communities.

It should be noted that many members of these communities leave rural regions to go to larger urban areas. This urbanization phenomenon is observed in the general population of Canada, but it has a different and very significant impact on official language communities. In fact, in the rural municipalities where they are traditionally found, official language communities usually form a significant portion of the total population. Through urbanization, these communities lose the advantage of their relative weight.

We also know that immigration reduces the relative weight of the official language minority population. For example, if the francophone population of a mostly anglophone province like mine is 10 per cent, then 10 per cent of the immigrants welcomed by that province would need to have French as their first official language in order to maintain the balance. But that is not the case. Not only does the community have to deal with other assimilative pressures, but it also has to grow at a higher than average rate in order to offset the effects of immigration and simply keep its relative size in a given region. As the Commissioner of Official Languages explained, we use the vitality of the majority to qualify the vitality of the minority. This is totally unfair, and that is why the bill makes it mandatory to consider the particular characteristics and institutional vitality of affected communities. That is much more important than a relative percentage over which communities have no control.

In addition, the omission of the principle of the community's particular characteristics does not respect the spirit of the Official Languages Act. According to section 32 of the Official Languages Act, aside from statistics, the government can take into account the particular characteristics of the communities when making regulations to give effect to Part IV. For reasons that we do not know, the government chose not to include this criterion. The result is that decisions are made based purely on statistics with no consideration of the context. I am telling you today that we know from 20 years of experience that this omission was a mistake that we can and must correct. Bill S-211 takes this shortcoming into account.

Honourable senators, the amendment of Part IV of the Official Languages Act also just makes good sense. The communities have worked hard to build institutions that ensure their vitality and that of their language. It is impossible to describe official language communities without mentioning the vitality of these institutions, and it is therefore impossible to determine whether they are in need of services.

By recognizing the importance of institutional vitality in Canadian communities, the Official Languages Act will make it possible to reconcile the existing approach, which is purely statistical, with the reality of official language communities.

[English]

I have come to learn through my years at the Senate, and particularly as a member of the Standing Senate Committee on Official Languages, that the anglophone communities in Quebec have their own set of challenges. I have aimed to propose a bill that addresses the preoccupations of all official language minority groups in Canada.

In Quebec, the anglophone community does not face the same linguistic threat that francophone communities face, yet the same regulations, with the same statistical formulae devoid of context, is expected to apply to both official language communities. Bill S-211 introduces a more flexible vocabulary. By focusing on communities and their needs instead of statistics that are arbitrarily analyzed, the government would be able to truly assess the needs of each community and to deliver adequate services.

[Translation]

Finally, these two amendments are necessary because Part IV's current approach is incompatible with and contradicts Part VII of the act. Under Part VII, federal institutions have an obligation to take positive measures to support the development and enhance the vitality of official language minority communities. However the implementing regulations for Part IV of the act require the government to stop providing services to an official language minority community in its language if that community falls below the 5 per cent threshold for reasons beyond its control. This can happen even if the community has grown but at a slower pace than the majority. It is difficult to reconcile this approach with the obligation to take positive measures to support the development of these communities.

We need an act and regulations that recognize the role of institutional vitality and the fact that the communities affected are often larger than how they have been defined.

• (1530)

Such legislation is consistent with the spirit of the law.

I will now go over some of what is involved in implementing these two amendments. Again, implementation will be done through the adoption and subsequent application of regulations. The bill lists two criteria that the government will have to take into account in drafting new implementing regulations or amendments to the current regulations.

First, institutional vitality has to be defined. This definition will have to be made in consultation with the official language communities. I personally believe that education has a significant place in the assessment of the institutional vitality of a community, because the presence of a school is the most important indicator that a community is vital and viable in the long term. I also believe that culture, health, social services and economic development are important factors. The different indicators will have to be weighed in committee and in consultation with the affected communities.

It should be noted that the concept of institutional vitality is not entirely new and its definition is far from abstract. In addition to being recognized as an important factor in Canadian jurisprudence, it has already been the subject of various regulations within the government.

We know, for example, that Canadian Heritage is developing its own definition of this principle and a list of indicators. This initiative is at the validation stage.

Even more concretely, the implementation of the last Roadmap for Canada's Linguistic Duality required active collaboration with many community organizations working in a number of fields. These same organizations are now being invited by the federal government to take part in consultations in preparation for the next roadmap.

In addition, federal institutions have had to develop criteria to identify positive measures to take under Part VII of the act. To fulfill their obligations under Part VII, and there are many examples of this being done successfully, federal institutions need to have a good knowledge of the official language communities they serve. This knowledge should be put to good use in terms of Part IV of the act as well. This would enable the government to make better, more informed choices, not only about the communities it serves, but also about services that would be more useful in one region than in another. All of this goes to show that developing regulations that define and establish criteria for institutional vitality is not only highly desirable, but also quite feasible.

Official language minority communities can be effective and important partners for the federal government in implementing such regulations.

I would like to quote from the Commissioner of Official Languages' report, *A Sharper View*, on this subject:

Federal institutions have supported the organizations created by these minority communities and, more recently, they have begun to be receptive to shared governance in



concert with the communities. The OLMCs have gradually organized themselves and asserted their legitimacy within the framework of linguistic duality. For more than 30 years, the communities in every geographical region have been represented in every sphere of activity by associations that stand guard over their rights and attempt to find ways and means of enhancing their vitality.

Within the communities themselves, all of the necessary information about institutional vitality is available to us. Why not work with these organizations to understand the need for and usefulness of federal services in a given region? These communities need a true partnership with federal institutions. The federal government also needs this partnership to make more informed decisions that, in many cases, will be less costly.

The bill also proposes consideration of the population that can communicate in the minority language instead of the population with this language as the first official language spoken. Implementing this definition would not be problematic because the pertinent data are compiled by Statistics Canada and are already available.

In addition, the new definition of the minority official language population proposed in Bill S-211 will increase the number of these populations, but much of the increase will be felt in regions that already have services in the minority official language, and the risk of creating artificial demand is therefore greatly tempered.

It is up to the government, and also the Senate committee that I hope will be tasked with studying this bill, to present an appropriate regulatory framework that will properly target the regions where services are truly needed. In the meantime, claims that this bill will result in artificial demand are premature and baseless. Until new implementing regulations are adopted, the demand cannot be quantified.

Therefore, I do not believe that the premise that the criteria will be difficult to apply is a valid argument against this bill. The current regulations are notoriously difficult to apply and do not even achieve satisfactory results. We have been told by Treasury Board officials that they start preparing for new decennial census data two years in advance and that it takes an additional year to apply them. We believe that this three-year period provides ample time for consulting official language minority communities in order to chart the institutional vitality of these communities in each of our provinces and territories.

Not only is this rule harmful to communities, but it is also difficult to enforce. It is time for this government to come up with flexible, simple regulations that will really benefit the communities that the act is supposed to protect.

In addition to those two points, Bill S-211 contains four other supplementary points. The first states that all federal institutions have a duty to take every reasonable measure to ensure that the communications and services they provide to the public are of equal quality in both official languages. This duty to ensure the equality of services is only natural, in accordance with the Charter and the Official Languages Act, and it is recognized in Supreme Court case law.

In *Desrochers*, in fact, the Supreme Court explained the need for substantive equality, as opposed to formal equality, in the provision of services. To my way of thinking, this means active offer, regular consultation, an integrated approach and adapted services. This amendment does not introduce any new obligations for the government; it merely confirms those recognized by the Supreme Court.

In order to facilitate the assessment of quality, under this bill, federal institutions are required to consult communities on the quality of the communications and services they provide to the public. This partnership between federal institutions and communities can only improve service delivery and reduce the costs associated with quality control.

The second point provides that the government has a duty to inform Parliament and the communities in question before it can relieve a federal institution of its duty to communicate with or offer services to the public in either official language. This provision truly reflects the essence of Bill S-211, which is to protect the gains that have been made by official language minority communities.

The communities depend on these institutions and deserve to be officially informed. A mechanism must be implemented to ensure that reasons are given for the decision and that there is a review process. This will replace the existing model wherein communities are informed that a service has been cut only after the fact and the government often has to reverse its decisions.

Why not open the channels of communication and come to a compromise with the communities affected? The government could make more informed decisions by listening to the testimony and presentations given by official language minority communities. Advance notice would allow these communities to assess their own situations and help make the decisions that affect them.

The third point stipulates that the regulations be reviewed every 10 years. By ensuring a decennial review, this bill will prevent future generations from finding themselves in a situation like the one we are in now with antiquated regulations that do not take major demographic, social and legal changes into account.

Finally, one last aspect of Bill S-211 is designed to ensure that members of the public have access to services in the official language of their choice in major transportation centres. This includes federal railway stations and airports serving metropolitan regions and federal, provincial and territorial capitals.

Canada's main transit points must reflect the country's linguistic duality. When I discuss the importance of this aspect of the bill with members of my community, I cannot help but think of the appearance of the Honourable James Moore, Minister of Canadian Heritage, before the Standing Senate Committee on Official Languages last fall. The minister testified about the experience he had at the Vancouver airport just before the 2010 Olympics.

• (1540)

He decided to come to Vancouver as a unilingual francophone and noticed that it was important to receive the required services in French.

The situation was corrected in time for the Olympic Games. Should we not be able to travel to our largest hubs in both official languages?

I also want to note that in that regard, this bill creates nothing new but underscores and solidifies a positive trend we are seeing in Canada.

The relevant information is available on the Treasury Board website on the 20 of the 24 airports that would be affected by this bill. Fifteen of those 24 airports already provide services to the public in both official languages. This is far from a major restructuring of Canada's airports.

Imagine for a moment the message that such a change sends about linguistic duality from coast to coast.

[English]

Honourable senators, this bill, first and foremost, is born of my own experiences and the experience of my community. As many of you know, I come from a small francophone village in Manitoba. My ancestors have lived in Manitoba for over 125 years and have transmitted to me the same values of identity and community that have sustained them through adversity. It is these values that I have brought with me to the Senate and that have guided my actions in this chamber.

Of course, our communities have changed over the years. I was raised in what was then a typical francophone family as the eldest of eleven children. I went to school in a convent run by the Soeurs Grises, the Grey Nuns, in a French community called Sainte-Anne-des-Chênes in southwestern Manitoba. When the provincial inspector would arrive, we had to hide our French manuals. French schools had been abolished in 1916, and French education was thus forbidden by law in Manitoba.

**Senator Munson:** What a shame.

**Senator Chaput:** Such policies were inspired by the same irrational beliefs that led, 200 years earlier, to the deportation of the Acadians who were told that they could never return to their country. It was thought, indeed, that a federation like Canada could have only one culture and one language.

We have come a long way since. I have transmitted my forefathers' values of identity and community to my three daughters and four granddaughters who live in a francophone reality that is entirely different from the one that I have known. They live in a francophonie that is modern and dynamic, where "native" French-Canadians live side by side with the Metis, recently arrived francophone Canadians, bilingual Canadians and francophiles. It is a francophonie that is increasingly open to the anglophone majority, which, in turn, is increasingly open to and accepting of it.

However, these tremendous advancements and achievements were no accident and certainly no gift from above. They were earned through hard work and through important efforts to affirm and defend our communities' rights.

Let us make no mistake about it. Had French-Canadian communities in anglophone-majority provinces not maintained, through thick and thin, the will to preserve their language and identity, they would not be around today.

Government efforts to support our communities, when they took place, often arrived as concessions after prolonged community efforts or as a way of complying with various judicial decisions — including many from the highest Court of the country — affirming our rights.

Even when relevant and useful legislation has been passed, its afferent regulations and application have often been incomplete and necessitated further judicial action. Part IV of the Official Languages Act, I believe, is one such example. For all the reasons I have listed above, its wording and application do not reflect the current challenges facing official language communities living in minority settings. While its stated objective is undoubtedly to promote the use of both official languages, its actual application often plays against this very objective.

This is the problem that Bill S-211 addresses. I am not, as some would like to claim, attempting to fundamentally redefine language relations in Canada. It must be noted here that many provinces and territories have, in fact, introduced legislation that is far more progressive than Part IV of the Official Languages Act.

As honourable senators can see, Bill S-211 does not call upon the federal government to become a trailblazer in redefining services to the official language communities in minority settings. In fact, it actually calls upon the federal government to catch up to the reality and to the efforts of community groups and provincial and territorial governments.

I also question how some have already expressed concerns that this bill would create what they call an "artificial demand" in certain regions. As the relevant regulation can only be drafted after the bill has passed, such claims have absolutely no evidentiary basis and are a way of misleading the discussion.

Honourable senators, the real question is the following: In light of the government's obligation and stated desire to encourage the development of official language communities in minority settings and to promote the use of both official languages, should federal institutions consider the vitality and specificity of these communities before deciding whether they shall deliver appropriate services for the next 10 years?

This is the question that Bill S-211 addresses. It proposes rethinking the application — and not the intention — of a section of the Official Languages Act that, for 20 years now, has not adequately fulfilled its obligations towards Canada's official language minority communities. It proposes a forward-looking, flexible and effective solution to address the problem.

Bill S-211 is admittedly not the most newsworthy piece of legislation that you will see this year, but it is one that addresses a serious concern for minority groups in Canada and will require careful scrutiny in committee prior to its passage. For all



these reasons, I believe that tabling this specific bill for your consideration is fully in line with my responsibilities as a French-speaking senator from Manitoba and the traditions of the Senate.

[Translation]

As you all know, honourable senators, the Senate has a constitutional mandate to protect, defend and promote minority rights and to represent the regions.

I am asking you to support this bill and allow a Senate committee to study it.

**Hon. Pierre De Bané:** Honourable senators, this bill is sponsored by my colleague, Senator Chaput. This is the first time in a quarter of a century that we have a bill that makes such significant changes since the bill introduced by our late colleague, the Honourable Jean Robert Gauthier, in 2005.

Senator Chaput's bill is about the real, everyday lives of people in both official language minority communities.

This bill goes a step beyond what was already in Part IV of the act, which deals with communications with and services to the public. This part has not been amended since it was first enacted over 20 years ago.

The Official Languages (Communications with and Services to the Public) Regulations came into effect in 1992. No major changes have been made since then, except for one change following the 2006 Federal Court ruling in *Doucet v. Canada*.

This section has often been described as very complex and difficult to interpret. Typically, stakeholders criticize the fact that Part IV of the Official Languages Act does not take change into account.

• (1550)

**Hon. Gerald J. Comeau:** I would like to verify whether Senator De Bané is making a speech or asking a question. I would like to be sure. The senator who makes a speech after the bill's sponsor is usually from the opposite side of the chamber. I wanted to check whether he is asking a question or making a speech.

**The Hon. the Speaker:** I understood that Senator De Bané was making a comment. We are still within Senator Chaput's 45 minutes of speaking time.

When Senator Chaput's time has expired, generally, a senator on the other side of the chamber is given the opportunity to speak. I am told that Senator Boisvenu will be that critic. Senator De Bané is simply making a comment.

**Senator De Bané:** Honourable senators, I wanted to ensure that I clearly understood the meaning of this bill. I am providing my comments in the hope that my colleague, Senator Chaput, can then tell me whether my observations are in keeping with the direction she wants to take.

I believe that this bill ensures that we take into account changes to Canada's sociological context. Under the existing regulations, services are provided only where there is significant demand, but

the regulations fail to take into consideration new variables — for example, immigration or exogamy — that affect the day-to-day life of official language minority communities. The existing regulations do not recognize members of the public who have a knowledge of both languages and who want to receive services in the language of the minority.

Honourable senators, that is why, for example, the Ministerial Conference on the Canadian Francophonie, which is made up of provincial and territorial ministers, recently published a list of Canadians who speak both official languages. This is a list of Canadians whose mother tongue is French; Canadians whose mother tongue is English and who learned French, such as the Honourable Minister of Canadian Heritage; and people who came to Canada from Europe, the Middle East, Africa and Asia and who learned French. The Ministerial Conference says that according to the official statistics, this group includes approximately 10 million people.

Thus, we need to go further than simply asking, "Who are the people whose mother tongue, which they still speak, is one of those two languages?"

Recent case law in the area of official languages highlights the importance of equal quality in the provision of services. The principle of substantive equality recognized in Canadian law supposes that we can provide services with different content or using different delivery channels while still ensuring that the minority receives services that are of the same quality as the majority.

The bill guarantees both French-speaking and English-speaking Canadians the right to receive services of equal quality from all federal institutions. It establishes a new partnership between federal institutions and official language minority communities regarding the quality of services provided. This takes the form of a duty to consult these communities in order to facilitate the assessment of service provision and to ensure quality.

As Senator Chaput pointed out, the current variables used in calculating significant demand are only quantitative: the amount of planning, the relative size of the population in a given region, the percentage of demand for services in the minority language.

The bill provides for the consideration of other, more qualitative variables, such as institutional vitality, the presence of French schools, health care facilities and so on.

The bill also defines the notion of official language minority population, taking into account anyone who is capable of communicating in the minority language — people who can speak the language, even if it is not their mother tongue.

Lastly, certain shortcomings were noted regarding services provided in both official languages at Canadian airports and to the traveling public. The bill guarantees the public access to services in the official language of their choice in major transportation hubs. It targets railway stations and airports, as well as the federal, provincial and territorial capitals. Lastly, this bill stipulates that Parliament and the public must be informed of any elimination or reduction of services.

Honourable senators, for these reasons it is now time to study and quickly pass this bill, which will truly respond to the aspirations of English-language and French-language minority communities.

I would like to thank and congratulate my colleague, the Honourable Maria Chaput, for introducing this bill.

**Senator Carignan:** Honourable senators, we were expecting a question, but I realize that Senator De Bané has used a portion of his 15 minutes' speaking time to speak about the bill. I wanted to ensure that the 45-minute speaking time of the second person has not elapsed, as Senator Comeau pointed out.

**The Hon. the Speaker:** As Senator Comeau mentioned, the government does have the 45-minute period. As there is one minute remaining in Senator Chaput's 45-minute speaking time, are there any other comments?

**Hon. Gerald J. Comeau:** Honourable senators, we will certainly examine all the senator's proposals in depth.

At one point near the end of her speech, she said:

[*English*]

There are those who have claimed that this bill would create an artificial demand. . . .

[*Translation*]

Could you tell us who said that?

**Senator Chaput:** Honourable senators, during the innumerable discussions I have had in recent years, I have been asked in general by various groups, not a Senate colleague, if there is the risk of creating an artificial demand. This was discussed when I met with Treasury Board representatives.

• (1600)

We wanted to be sure that the bill's intention was not to create artificial demand. We did the necessary research at my office to demonstrate, with concrete examples, that that was not the case and that by balancing the two new criteria, no artificial demand would be created. That is where the discussions took place.

**Senator Comeau:** If I understand correctly, according to the senator, they are pleased that this does not create artificial demand. You said this without indicating whether the government officials were fully satisfied with the response you gave them.

**Senator Chaput:** Honourable senators, I can never say whether people are fully satisfied with the response they are given, because I cannot guess everything that is going on in their heads.

I gave them the explanation and I gave some examples to reassure them that this would not create significant demand. That is my answer.

**Senator Comeau:** Could the senator tell us the names of the people, so that we can ask them about the comments they made?

(Debate suspended.)

#### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, coincidentally, two things have happened at once: it is 4 p.m., and the 45 minutes allotted to Senator Chaput have expired. Therefore, pursuant to the order adopted by the Senate on October 18, 2011, I must declare the Senate adjourned until Thursday, May 31, 2012, at 1:30 p.m.

(The Senate adjourned until Thursday, May 31, 2012, at 1:30 p.m.)



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# DEBATES OF THE SENATE

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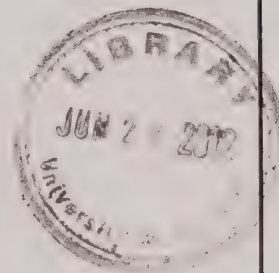
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OFFICIAL REPORT  
(HANSARD)

Thursday, May 31, 2012

The Honourable NOËL A. KINSELLA  
Speaker





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(Daily index of proceedings appears at back of this issue).

*Debates Services:* D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756  
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## THE SENATE

Thursday, May 31, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### ASIAN HERITAGE MONTH

**Hon. Vivienne Poy:** Honourable senators, this year marks the tenth anniversary of the declaration of May as Asian Heritage Month, which took place in a formal signing ceremony on May 21, 2002.

The declaration was the result of the Senate's adoption of my motion to officially designate May as Asian Heritage Month in Canada. It was passed unanimously on December 6, 2001.

Honourable senators, this chamber played a pivotal role in bringing about the long overdue recognition of Asian Canadians' contributions to Canada.

More than two decades ago, there were already grassroots Chinese Canadian celebrations in various cities. The motion was put forward because I realized that in the last 30-odd years, Canada has become increasingly diverse, with many newcomers arriving from Asian countries. These celebrations would benefit both the newcomers and mainstream society in a shared cultural exchange.

Today, thanks to the response from our communities across Canada, Asian Heritage Month celebrations are held in Vancouver, Kelowna, Edmonton, Calgary, Winnipeg, Brandon, Ottawa, Toronto, Peterborough, Montreal, Saint John, Fredericton, Moncton, Miramichi and Charlottetown.

Canadians of Asian heritage have seized the opportunity to celebrate their cultural heritage and share it with others. As a grassroots movement, the strength of Asian Heritage Month lies with its many volunteers who organize and host events. I wish to thank all the volunteers who have achieved so much over the past decade.

Many partnerships have been formed with schools, universities and colleges, as well as with literary and performing arts organizations. It is celebrated by the federal and various provincial and municipal governments, the police services in some cities and, this year, the Scarborough General Hospital in Toronto has also joined in the celebration.

For me, the most important feature of Asian Heritage Month is education, towards which I have worked very hard. Over the years, I have been invited to speak to students from elementary schools to university levels across Canada.

Honourable senators, I am delighted that Asian Heritage Month celebrations have become an important part of our communities and our curriculum. It is also a way for the provinces to welcome and retain newcomers. Over the past 10 years, I have noticed that these celebrations have resulted in greater understanding and new friendships among members of our diverse communities.

#### CANADA-JAPAN INTER-PARLIAMENTARY ASSOCIATION

**Hon. David Tkachuk:** Honourable senators, since 1981, the Canada-Japan Inter-Parliamentary Association and its Japanese counterpart, the Japan-Canada Diet Friendship League, have provided parliamentarians from our two countries opportunities to exchange views and to learn about each other.

The Japan-Canada Diet Friendship League is that nation's largest parliamentary association, as is our association here in Canada. Their association is chaired by the Speaker of the Diet, Mr. Takahiro Yokomichi. I have the honour to serve as the association's Senate co-chair, along with Mike Wallace from the House of Commons.

I wanted to speak today because on our recent trip the Japanese insisted that we spend two days travelling through the devastated earthquake and tsunami areas. This was not really part of our program, but they insisted on it. Each community we visited conveyed to us their deep gratitude, on behalf of their communities and the people of Japan, for the assistance offered by Canadians in the days and weeks following the earthquake and the tsunami that struck in March of last year.

We were able to visit the areas that have been devastated in ways that one can only imagine and to witness the considerable progress that the Japanese have made in rebuilding their cities and towns. Their nuclear facilities have all been closed down. It is worth noting, however, that it was not the earthquake that caused the problems at Fukushima, as all the safeguards that should have kicked in during the earthquake worked, but it was the tsunami that caused the cooling system to fail.

The number of visitors, of course, to Japan has fallen, with the result that their tourism industry is suffering. Honourable senators, the Japanese would like Canadians to know that their country is safe to visit. We were able to see for ourselves that the rebuilding is well under way. I think that, because of our response, their hospitality will be second to none. I urge all Canadians who are travelling east to Asia to make sure that Japan is one of their stops.

**MR. DUSTIN MILLIGAN****FORMER SENATE PAGE**

**Hon. Elizabeth Hubley:** Honourable senators, it is always a pleasure to hear about the great work that our Senate pages go on to do after they leave us and move on with their lives. They are truly an exceptional group of young people, and I am never surprised to hear that they so often go on to accomplish interesting things.

One such former Senate page is Dustin Milligan. As honourable senators may recall, Dustin came from Tyne Valley, Prince Edward Island, to study at the University of Ottawa. He served in the Senate from 2004 to 2006 and was chief page in his last year. Since then, he has moved on to law school at McGill University and most recently has authored a series of children's books on the Charter of Rights and Freedoms.

• (1340)

Each of these books is set in a different province or territory and uses humour and Canadian cultural references to bring human rights stories to life. Characters such as Anne of Green Tomatoes, Justin Beaver and Alanis Moosette explain the rights and freedoms in the Charter in a way that is appropriate and engaging for children. They are delightfully illustrated and easy to read. It is, therefore, no surprise that they have already grabbed the attention of teachers and school boards across the country.

Dustin has been working on the series for the past five years. He has so far published six books and was recently at the Main Branch of the Ottawa Public Library for a big book launch.

I hope you will all join me in congratulating Dustin on his hard work and great accomplishment. His book series is just the kind of innovative and exceptional work that Senate pages have a reputation for.

**MRS. FRANCES HELENA MUISE**

**Hon. Jane Cordy:** Honourable senators, on International Women's Day of this year I was contacted by Norma Jean MacPhee of CJCJ Radio in Sydney. She was interested in the series I had been doing in the Senate on influential Cape Breton women.

She interviewed me for the radio and also spoke to several of the women I have profiled. In the months since the interview, I have received from the listeners many suggestions of women who have made a great difference to their communities. I have even received stories about women who may not be as famous as some I have spoken about in the Senate but who are equally strong women.

I am delighted to present one such story to you today. It is from a gentleman by the name of Glen Muise who wrote to me about his mother.

Frances Helena Muise was born at Low Point outside New Waterford, Cape Breton, in August of 1927. She was the daughter of Joe and Millie Ling. Her father was a miner, a fisherman and a

rum-runner, and Fran grew up with her 12 brothers and sisters during the Depression era of the 1930s. She attended Holy Angels High School and then went on to graduate from St. Joseph's School of Nursing.

Frances married Alex Muise and they had eight children. Despite a clear commitment to raising her family, much of her life still revolved around her work. Frances possessed a strong duty to her community. In the late 1950s and early 1960s she would visit the elderly and sick people in her neighbourhood — this was before medicare — and the nuns provided her with a small kit of supplies, and she would wear her nurse's uniform with a white nurse's hat, which some of us may remember. She was affectionately known as Fran 911. Sometimes a patient would slip her a rolled up \$2 bill when no one was looking. This was a way to give them dignity as they loved to see her coming and they appreciated her help.

The 1960s and 1970s presented a lot of economic turmoil in industrial Cape Breton with the slowdown of the coal mines and the steel plant. Her husband, Alex, found it difficult to locate a permanent job, so it was Frances who continued to work in her nursing career and kept the family afloat, keeping oil for heat in the tank and food in the fridge.

Fran had been head nurse in every department of the New Waterford Hospital and knew her job inside out.

There was a conversation at the dinner table one evening about how underpaid nurses were compared with other jobs requiring less education that spurred her to contact her friends and form the first registered nurses association in New Waterford. She spearheaded the bargaining of their first contract. She did this with little fanfare, just because it had to be done.

Fran Muise knew almost every child that went through the hospital and rarely forgot their names. The many lives she saved were extensive, including that of her son Glen. He recalls the day when at the age of 15 his frontal lobe was struck with a sledgehammer while working a summer job. Although he was clinically dead when he was placed in front of his mother at the emergency, Frances performed emergency procedures that brought him back from death. The woman who had given him life in January of 1955 then saved it in June of 1970.

Honourable senators, Frances Muise passed away on February 22 of this year. No doubt she will be deeply missed by her family. Clearly she made a great contribution to her community of Cape Breton, and I am delighted to now know her story. I thank her son Glen for sharing it with me and for allowing me to share it with you here in the Senate. I look forward to sharing more stories with you of women from Cape Breton who have contributed significantly to their communities.

**BUSINESS OF THE SENATE**

**The Hon. the Speaker:** I will seize this opportunity to remind honourable senators that conversations are to be taken and held below the bar or outside the chamber.



## ROUTINE PROCEEDINGS

## INFORMATION COMMISSIONER

## SPECIAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to section 39 of the Access to Information Act, I have the honour to table, in both official languages, a special report entitled: *Measuring up: Improvements and ongoing concerns in access to information, 2008-09 to 2010-11.*

## PUBLIC SAFETY

RCMP'S USE OF THE LAW ENFORCEMENT  
JUSTIFICATION PROVISIONS—  
2011 ANNUAL REPORT TABLED

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the 2011 Annual Report on the RCMP's Use of the Law Enforcement Justification Provisions pursuant to section 25.3 of the Criminal Code.

[Translation]

## QUESTION PERIOD

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the response to an oral question raised by Senator Downe on March 15, 2012, concerning the Diamond Jubilee Medal nominations.

## GOVERNOR GENERAL

## DIAMOND JUBILEE MEDAL NOMINATIONS

(Response to question raised by Hon. Percy E. Downe on March 15, 2012)

The government provided the framework for allocating Diamond Jubilee Medals among partners to the Governor General.

## ORDERS OF THE DAY

## BUSINESS OF THE SENATE

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, pursuant to rule 27(1), I wish to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: first, Bill C-39 and, second, other government business as indicated on the Order Paper.

[English]

## RESTORING RAIL SERVICE BILL

## SECOND READING

**Hon. Pamela Wallin** moved second reading of Bill C-39, An Act to provide for the continuation and resumption of rail service operations.

She said: Honourable senators, I rise to express my support today for Bill C-39, An Act to provide for the continuation and resumption of rail service operations. This is a moderate and a measured bill. It is designed to move the parties back to the table to find agreement with the guidance of an arbitrator.

However, this story has a long history. Like many schoolchildren in Canada, I had books with pictures of Donald A. Smith driving the last spike to mark the completion of the Canadian Pacific Railway. Perhaps especially as a Prairie girl, the sound of the train, the tracks that criss-crossed our land, soon became part of our psyches.

In fact, I recall back to my very first public speech. It was in grade 4, and it was about the amazing story of the lady on the cowcatcher. The cowcatcher was just that, a metal guard attached to the front of a locomotive designed to push the cows or the deer or the moose off the tracks.

• (1350)

During a trip into western Canada on the newly completed CPR, Lady Agnes Macdonald, wife of our first prime minister, Sir John A. Macdonald, announced that she would ride from Lake Louise to the West Coast on the cowcatcher. As honourable senators can imagine, this caused much consternation both for the railway superintendent accompanying the Macdonalds and for Sir John A. himself. The lady insisted and persisted, so an empty wooden box was found beside the tracks, converted into a seat, attached to the cowcatcher and, with no shelter or protection whatsoever, there Lady Agnes rode, the ultimate front-row seat. She delightedly pronounced she would travel from summit to sea.

With all of the homework required to prepare that speech, I began to learn that this story was about much more than a tenacious first lady. Not only was the building of the Canadian Pacific Railway one of the engineering miracles of its time, many thought it was impossible. We all came to understand that this ribbon of steel was a literal link, helping to make our nation one from sea to sea, connecting peoples and communities from Montreal to the West Coast.

As I began to understand more about our country's economy, one could not help but appreciate just how important the rail is to the prosperity and future of a trading nation such as ours. This transcontinental railway, all 22,000 kilometres of it — miles in those days — was and is crucial to a trading nation. The railways gave us access to markets in every corner of the world. Today, CP Rail has direct links to eight major ports. Within North America, CP Rail's agreements with other market carriers extend the reach east of Montreal, throughout the U.S. and well into Mexico. This vast rail network, with its connection to major ports and other carriers, circulates raw materials and finished products throughout a complex transportation system that is essential to our economic system.

Today, with this rail component halted, every other part of our national transportation system is feeling the negative effect, and it is a serious threat to our still fragile economic recovery. The work stoppage is costing our country \$540 million each week and could soon put thousands of Canadians out of work. If the stoppage is prolonged, it will jeopardize the survival of enterprises, large and small, from coast to coast in this country.

Let us just consider for a moment some of the products and raw materials that have stopped moving due to the shutdown. CP regularly transports coal and other forms of energy, including the components for wind energy, as well as sulfur, potash, fertilizers, industrial products, automotive parts, grain, food products, forest products and a wide range of machinery and truck trailers. This is by no means an exhaustive list, but, in fact, nearly 40 per cent of the cargo containers moving inside this country at any given time are being shipped by CP Rail.

Today, there is \$50 million worth of grain sitting in elevators instead of being shipped to ports.

The big three automakers, who run on a just-in-time assembly system, are scrambling to try to get and move much-needed auto parts. If production lines go idle, it would mean \$1.5 million in lost revenue every hour.

We have also been recently informed, through a report by the Rotman School of Management at the University of Toronto, that the four key Canadian bulk shipping industries that use rail transport contribute \$81 billion to the Canadian GDP every year and, in doing so, support 1 million Canadian jobs. Just as a reminder, honourable senators, these four key industries are oilseed and grain farming; coal mining; wood products manufacturing; pulp and paper and paper products manufacturing.

If this work stoppage continues, there would be a significant piece of that annual GDP contribution lost, and so, too, would we lose the jobs of some of those 1 million Canadians.

As honourable senators well know, ours is increasingly a just-in-time economy, with businesses and consumers dependent on timely shipments. Of course, all businesses depend on good customer relations and, if they cannot deliver to their customers on time and as promised, then their reputation is tarnished and that, too, imposes a cost. Therefore, we cannot afford to continue to subject Canadian businesses, entire industry sectors and consumers to this kind of unnecessary risk, inconvenience and loss.

Let us consider, as well, the many thousands of individual Canadians employed by the businesses and industries whose very viability depends indirectly on reliable rail transport. Let us think about the paycheques that flow from their jobs and the families who depend on them. We cannot in good conscience ignore the human costs of this work stoppage.

To emphasize my earlier point, honourable senators, Canada is a trading nation. Our economic prospects are tied to our capacity to transport the materials and goods that we produce, buy and sell. With that capacity undermined by this work stoppage, our efforts to stimulate our recovering economy will be set back.

These, honourable senators, are just some of the reasons that I feel so strongly, so passionately about this bill for which I stand to offer support today. The future of our economy is of paramount concern to each and every Canadian and, at a time of continuing global financial uncertainty, we must continue to be vigilant in protecting our own.

Canadians have worked so hard and sacrificed so much to keep ours the strongest economy in the G8, to keep this country the place declared by the international community to be the best place in the world in which to invest and do business. Why would we undo our good work, our sacrifice and the investments in our recovering economy? Why would we continue to risk the well-being of millions of Canadians? It really is unthinkable because it is our duty to protect them, and that is the driving force behind this bill.

One cannot overstate how important this work stoppage is to the economy's supply chain and the transportation services that keep our inbound and outbound goods moving so smoothly.

Beyond that, here is an additional concern: According to the Rail Freight Service Review report of March 2011, stakeholders say that after a rail work stoppage, it can take several more weeks for operations to fully recover, to get back on track, as it were. Again, this comes at a significant cost. The consequences could be devastating for Canada's international reputation as a supplier and as a trader. If that happens, we all lose on a massive scale. If we allow a CP work stoppage to continue, we will imperil our economy. We must act to protect it. It is the lifeblood of our nation. We owe this to Canadians and to the country we cherish.

That is why I was troubled, even astounded, to hear Roger Cuzner, a Liberal Member of Parliament, rise on Tuesday night in the other place to state categorically that he does not stand with Canadians. Instead, he declared:

We —

— the Liberals —

— will stand with the union on this particular bill. We will stand shoulder to shoulder with the teamsters on the bill and we will vote against this back-to-work legislation.

That is a vote against the people of this country. It is a vote against the economy of this country. Why would one not stand shoulder to shoulder with all Canadian citizens whose livelihoods, incomes and work depend on the movement of goods across and through this great land?



What puzzles me is this: Liberals, when in office, when they are government, have actually been able to understand the importance of our economy and have, therefore, moved to legislate companies and employers back to work for the greater economic good. I will be happy to read the list. It goes back to 1950.

As to the number of times that Liberal governments have introduced back-to-work legislation for the greater good — the good of this country — I count 20 times, honourable senators.

• (1400)

I will provide examples: 1997, Lawrence MacAulay, resumption and continuation of postal service; 1995, maintenance of railway operations and subsidiary services, Minister Robillard; 1978, Shipping Continuation Act, André Ouellet; 1977, air traffic control services; 1974, West Coast grain handling, John Munro; maintenance of railway operations in 1973 — legislated back to work. I will go further back: 1966, maintenance of railway operations, Lester B. Pearson; and, in 1950, maintenance of railway operations, and Louis St. Laurent was Prime Minister then.

I ask honourable senators, do you stand with Canadians, as Liberal governments of the past have done, to do what needs to be done for Canadians and for the greater good, or do you stand with the narrow interests, with the teamsters and some Liberal MPs in the other place, against Canadians and the economic viability of this country?

Please follow the lead of previous governments in this country and of the government today that have shown leadership and that have stepped up to take the tough decisions. A vote in favour of Bill C-39 will end uncertainty. It will allow the complex supply chain comprised of shippers, railways, terminal operators, trucks, ports, shipping lines, farmers, business people and consumers to resume their lives and to resume operating in a predictable, reliable and efficient fashion.

Let me make it very clear that no one, and that includes every member of our government, likes back-to-work legislation. This is by no means our first or preferred option. The most appropriate role of government is to establish sensible and reasonable ground rules for negotiations, to provide for recourse if one or the other side does not bargain in good faith, or to assist the parties to reach their own settlement through the provision of expert and neutral conciliation or mediation services.

In the vast majority of circumstances, honourable senators, these principles are followed and they work well. When the Federal Mediation and Conciliation Service becomes involved, more than 94 per cent of collective negotiations in the federally regulated sector end with a settlement to which both sides have agreed.

It also holds true that when a strike or lockout does take place, the government should let it run its course. After all, it is the right of employers and workers to engage in a workplace action, and it is widely considered to be a freedom in an open and democratic

society. However, as with most general principles, there must sometimes be exceptions. In certain circumstances, the public interest must be weighed against the rights of private parties to negotiate and apply pressure on each other as they see fit, when there are other consequences.

It is normal, of course, for a work stoppage to affect the parties themselves; that is the whole point of a strike or lockout. However, when the price is actually being paid by innocent third parties, and when that price is too high for individuals who work hard in this country and for this country itself, then it is our responsibility to consider limits.

The situation we are now facing is one of those rare times when an exception must be made in the national public interest. Back-to-work legislation, as I said, is never anyone's preferred option. It is used only when there is a clear threat to the health and safety of the public or to the national economy, and when every other alternative has failed to produce a settlement.

In this respect, I want to stress that our government has made serious efforts to encourage the parties to reach agreements through the negotiation process. The Labour Program's Federal Mediation and Conciliation Service has spent countless hours trying to bring about settlement. No effort has been spared in striving to help the parties arrive at a satisfactory resolution. However, despite all of these efforts, the parties remain locked in stalemate. Regrettably, there is absolutely no sign that they are ready to compromise.

Too much is at stake for this country for us to delay taking action. Watching from the sidelines is just not an option for our government or for any of us, or for those of us in this chamber, particularly today. It would not be the right thing to do. Canadians gave our government a mandate to protect our economy and to help create jobs, and we will and we must do everything in our power to keep that commitment. We have an obvious duty here as senators: We must stand up for our fellow Canadians and for our economy.

Therefore, I urge every honourable senator in this chamber to act in the best interests of our nation and in the best interests of the Canadian people by voting in favour of Bill C-39.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, here we go again. We have seen this movie before and we know how it ends — another strike, another bill legislating Canadian workers back to work. Once again, the Harper government has marched headlong into a private sector dispute to impose its will on the parties. The days of big government are back, except instead of government providing a social safety net to help workers when they find themselves out of work or to help older Canadians make ends meet with OAS, the Harper version of big government is to reach into a private dispute and bring down the heavy hammer of a new law to take away collective bargaining rights.

This is the Harper vision of Canada: Leave the workers and poor Canadians to fend for themselves, but intervene quickly to stomp on collective bargaining rights of workers trying to do their best to provide for their families.

This is now the sixth piece of back-to-work legislation that the Harper government has tabled since coming to power six years ago — the fourth in just the past year. That is quite a record, honourable senators. The last time this country saw so much back-to-work legislation was in 1991, under the Conservative government of Prime Minister Brian Mulroney.

Labour Minister Raitt likes to pay lip service to her government's respect for the collective bargaining process, but let us look at the facts. Last year, the postal workers went on strike but deliberately structured their strike action to have minimal disruption for Canadians and Canadian businesses. Management, evidently confident that the government would intervene on its side, locked the workers out. That caused disruption. The government then did exactly what management must have hoped for: They legislated the workers back to work, and on terms less favourable than those the company had already offered in negotiations.

Then came several successive labour problems at Air Canada. Most recently, the government did not wait for the pilots and others to go out on strike. I guess their motto was, "Why wait when you can legislate?" We all remember Prime Minister Harper's revealing words during the last election campaign: "I make the rules."

Of course, in the Air Canada situation his government was justifiably criticized for moving before there had even been a disruption in service at Air Canada. Therefore, this time, with the CP Rail dispute, they did wait. They held off for 10 hours after the strike began. Then they moved. Not even half a day into a legal strike, Minister Raitt announced that her government would introduce back-to-work legislation, and she had already broadly hinted in the public that she would do so.

John Ivison of the *National Post*, a journalist the Leader of the Government in the Senate has referred to approvingly in the past, wrote this on Monday:

Canada Post appears to have been a point, Air Canada a trend and Canadian Pacific a pattern. Employers need not bother negotiating in good faith, safe in the knowledge the government will step in on their side, like some school yard bully.

Part of the problem with this approach is that it settles nothing, merely pushing off the dispute into the court system, where both previous disputes remain in the hands of arbitrators.

He noted in the article that some of the leader's caucus members themselves are "uncomfortable about the rush to get involved" in the CP Rail case. He quoted one Conservative MP, who said, "We should let the process run its course. If they don't find a solution in the medium term — say two to three weeks — then step in. It's only been a week."

George Smith used to be Vice-President of Industrial Relations at CP Rail. He is now Adjunct Professor of Industrial Relations at Queens University's School of Policy Studies and will be one of the witnesses we will be able to chat with during Committee

of the Whole later today. He has pointed out that the Harper government has intervened in virtually every labour dispute that occurred during their time in office. That fact becomes, in his words, "the elephant in the room" during collective bargaining. As he described it in an interview on CBC's *As It Happens* last weekend:

The bottom line is that has a deleterious effect. There's always going to be now naysayers in the back room. Because getting a deal is never easy in these circumstances, there's going to be naysayers saying let's take our chances with back-to-work legislation and an arbitrator appointed by the government might see things our way.

• (1410)

Honourable senators, the right to collective bargaining is a fundamental right protected under the freedom of association in our Charter. Small wonder that this government assiduously avoided the thirtieth anniversary of the Charter, when its actions are increasingly being seen by Canadians as undermining the rights and freedoms enshrined in that document.

Let us be clear: It is not enough to pay lip service to collective bargaining. If you believe that disputes are best resolved by the parties themselves — if you believe that the government should only intervene in private sector disputes as a last resort — then you will undoubtedly conclude, as I have, that this back-to-work legislation at this time is simply wrong — wrong for the 5,000 workers who have lost any real right to collective bargaining, wrong for labour relations in this country, and ultimately wrong for Canada.

It is not only workers and labour unions who are concerned by the Harper government's actions; employers and major corporations recognize the long-term problems this will very likely cause.

Ian Lee, a professor at Carleton University's Sprott School of Business, who will also be appearing this afternoon, was interviewed a few days ago by *The Globe and Mail*. He said that CP and other federal employers are worried that they are losing control of the bargaining agenda and will suffer financial pain in the long term. In his words, the companies "aren't jumping for joy" at Ottawa's intervention because they want to negotiate collective agreements with labour leaders and sign contracts.

They understand that these back-to-work laws are government-imposed, short-term fixes that actually can prevent the parties from reaching negotiated settlements that all sides agree to and accept, and that then allow management and the employees to focus on the work that needs to be done, rather than on simmering labour disputes.

Benjamin Dachis and Robert Hebdon of the C.D. Howe institute — not exactly a left-wing organization — published a report in 2010 entitled *The Laws of Unintended Consequence: The Effect of Labour Legislation on Wages and Strikes*. They found that:

... resort to "back-to-work" legislation reduces the likelihood of a freely settled contract in the next round of negotiations, perpetuating the cycle of government intervention.



In other words, honourable senators, this is not the way to end labour strife or of the need for government to intervene. It is the way to perpetuate it.

Barrie McKenna, the respected business columnist at *The Globe and Mail*, interviewed Mr. Dachis about this report in the context of the CP dispute. He said that the reason for this cycle is simple: Intervention lets both sides off the hook. Knowing the government is ready to step in discourages both the employer and the employees from tackling the toughest issues at the bargaining table. In his words:

Intervention makes a freely bargained contract down the road less likely. The government not only kicks the can down the road, but makes the two sides less likely to reach a mutually agreeable outcome.

Honourable senators, this is not only bad government, this is bad public policy.

For these reasons, I will not be supporting this bill. This is not the direction we should be going with labour relations in this country.

However, I cannot conclude without acknowledging something the government has done right, although I should warn honourable senators that it is faint praise. This bill is not as bad as previous back-to-work bills presented by this government over the last year. I know it is hard to believe.

I was pleased to see that the government evidently recognized that certain clauses that were included in previous bills were, as we on this side strenuously argued at the time, simply wrong-headed. Specifically, I was relieved to see that this government did not include a final offer selection clause in Bill C-39. Equally important, the government is not, as it has done before, micromanaging the work of the arbitrator by legislating detailed terms of reference and guiding principles that the arbitrator must follow.

What is not in the bill is a small step in the right direction; but that there is a bill at all, so early in the collective bargaining process, is a giant step in the wrong direction, in my view.

The government simply should not be intervening in labour disputes at this early stage. It sends the wrong message to the parties, and ultimately it is self-defeating, as the C.D. Howe Institute has confirmed.

It is regrettable that the government is showing once again its conviction that a free market economy should operate freely for everyone, except for the workers. While it frequently expresses concern for hard-working Canadians, some hard-working Canadians count, but many — too many — simply do not. Exercise your constitutional right to join together for a stronger bargaining voice and do better for your family, and you are suddenly sidelined and marginalized. You are not the right kind of hard-working Canadian for this government. You are the kind that the heavy hand of Prime Minister Stephen Harper will brush away, as is being done again today.

[ Senator Cowan ]

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by the Honourable Senator Wallace, seconded by the Honourable Senator Johnson, that the bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Hon. the Speaker:** Carried, on division.

(Motion agreed to, on division, and bill read second time.)

[Translation]

#### COMMITTEE OF THE WHOLE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

**Hon. Claude Carignan (Deputy Leader of the Government):** I move that this bill be referred to Committee of the Whole immediately.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**Senator Carignan:** Honourable senators, I request leave to suspend the application of rule 13 today.

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

**Senator Carignan:** Honourable senators, I also request leave to propose that the committee hear each group of witnesses for a maximum of 45 minutes.

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Donald H. Oliver in the chair.)

• (1420)

**The Chair:** Honourable senators, the Senate is now in Committee of the Whole to consider Bill C-39, An Act to Provide for the Continuation and Resumption of Rail Service Operations.

Honourables senators, rule 83 states that:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it agreed, honourable senators, that rule 83 be waived?

**Hon. Senators:** Agreed.

**Senator Carignan:** Honourable senators, I ask that, pursuant to rule 21, the Honourable Lisa Raitt, Minister of Labour, be invited to participate in the proceedings of the Committee of the Whole and that government officials be authorized to accompany her.

**The Chair:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

(Pursuant to rule 21 of the Rules of the Senate, the Honourable Lisa Raitt, Minister of Labour, and officials were escorted to seats in the Senate Chamber.)

**The Chair:** Minister Raitt, welcome to the Senate. I would ask you to introduce your officials and make your opening remarks. You have the floor, Minister.

[English]

**Honourable Lisa Raitt, Minister of Labour:** Thank you, I appreciate being here.

With me are my officials, the Deputy Minister of Labour, Hélène Gosselin; the Director General of the Federal Mediation and Conciliation Service, Guy Baron; and the Senior Counsel and Group Head of Human Resources and Skills Development Canada, Christian Beaulieu.

Mr. Chair, in an ideal word, parties in a dispute would settle their differences quickly and amicably. They would work hard to understand the other's point of view and, moreover, they would appreciate that their disagreement could have far-reaching consequences for people not directly involved. Armed with this knowledge and insight, they would compromise for the mutual benefit of all concerned. Unfortunately, our world is far from ideal. As a result, despite months of negotiations between the parties, we are now facing a work stoppage at CP Rail, and indeed we are entering day nine.

The strike is resonating far beyond the confines of the rail industry as we see it today. Given its impact on our economy, the government is acting in the national interest, and our actions have generated a predictable chorus of objections. We have been accused of misusing our powers and undermining the right to collective bargaining. We have been told that we are moving too quickly, and, finally, it has been suggested that the problem is not serious enough to warrant back-to-work legislation.

However, none of these objections holds water. Since 1950, the Government of Canada has consistently intervened with back-to-work legislation in the railway industry. Our actions today follow

the time-honoured footsteps of many previous governments, governments that were equally concerned with shutting down all or part of the rail system.

I have been asked if I think this government is undermining the collective bargaining process many times in the past nine days, and frankly, the answer is no.

I would like to be perfectly clear that this government remains firmly convinced that collective bargaining is a far better way to resolve disputes than emergency legislation. It is significant that nothing in the legislation prevents the parties from modifying any provision in the collective agreements, new or changed.

It has been almost five months since the expiration of collective agreements covering rail traffic controllers and the running-trades employees. Like all concerned, the government had hoped that CP Rail and the two units could reach agreements to settle their differences, but this has not been the case.

On February 17, I received notices of dispute from CP Rail for both the units, which put into process provisions of the Canada Labour Code. On March 2, the labour program appointed two federal conciliation officers for both units, and they were the same ones for each unit to ensure consistency in the process. In other words, far from undermining the collective bargaining process, the Government of Canada has taken the steps set out in the Canada Labour Code to help the parties resolve their differences, providing both conciliation and mediation.

Despite these efforts, the parties remained at an impasse. On March 1 they were released from conciliation, and mediation was provided after that. My office intervened and I, along with the deputy minister, met with the parties twice in May to offer them a five-point plan for extended mediation outside of the cooling-off period to help them reach agreements and to prevent a work stoppage, and if they could not reach agreements, at least move them forward on some of the remaining issues that were on the bargaining table. These were pensions and wages, benefits and working conditions. Unfortunately, this assistance was not accepted, and as a result, on May 23 the strike began.

• (1430)

Unfortunately, the parties did not manage to reach an agreement at that point in time, and every day that they negotiated since the strike began, they did not, either. As a result, they have caused serious economic problems in our country. As the government, we took the necessary steps and we acted for Canadians and our economy because this government respects the rights of unions to strike and we respect the rights of employers to lock out their workers. We quite frankly would prefer not to interfere in the affairs of CP Rail and their employees, but we are not prepared to stand idly by as a work stoppage cripples vast sectors of our economy.

Are we moving too quickly with legislation, Mr. Chair? Absolutely not. I realize that the parties have tried to settle the various disputes, but this government is faced with a situation that requires immediate and decisive intervention. The parties have had ample time to reach an agreement and have received help from experts in mediation. Indeed, even during the strike after many days, our mediators offered both parties a



compromise position for voluntary arbitration last Sunday. It was rejected out of hand, and as a result, labour officials withdrew their services because it was determined the parties were so entrenched that they would not be able to come to any conclusion. At this point today, since that time and since the work stoppage, we have no expectation that the parties will see eye-to-eye any time soon, and indeed there are no negotiations going on. We cannot wait any longer, especially since our economy is hanging in the balance.

CP Rail has grown into a vast network of some 22,000 kilometres and operates in 13 American states as well as six of our provinces. For many farmers and miners, freight rail is the mode of choice to get their products to market just by the nature of the product, and CP Rail is the company to which they most frequently turn. In 2010, according to Transport Canada, CP Rail transported 74 per cent of this country's potash, 57 per cent of this country's wheat and 53 per cent of this country's coal. If you add it all up, the value of all the freight moved by CP Rail in Canada is nearly \$50 billion every year. In 2009, the University of Toronto's Rotman School of Management issued a report. It demonstrated the important role played by four key Canadian bulk shipping industries that use freight rail. The industries that were considered were oilseed and grains, coal mining, wood product manufacturing, and pulp and paper and paper products manufacturing. The study determined that those four contribute more than \$81 billion to Canada's GDP each year.

Moreover, they keep one million Canadians at work.

In other words, freight rail remains indispensable to our economy. It is not just important to the 15,000 people who work for CP Rail; it is also clearly vital to farmers, miners, forestry workers, factory workers and others who depend on the rail to help move their products across the continent and beyond and to those whose jobs are linked indirectly to the rail industry. Every day that this work stoppage drags on translates into job losses. With no trains running, the implications of this work stoppage are widespread. In addition to affecting farmers, miners and forestry workers, it is also impacting the auto sector. Auto parts are the third largest container import good that comes through the Port of Vancouver. They also come in through the Port of Montreal. This work stoppage is halting the shipment of these parts to manufacturers in Ontario, and without these parts assembly lines will slow down or stop, resulting in lost production and layoffs.

My colleagues and I had an opportunity to speak with principals in the auto industry two evenings ago. They made it very clear to us that they are facing the decision to close plants in the areas of Cambridge and Woodstock should we not move forward on this back-to-work legislation. Not only in the auto sector — do not forget that through partnerships with other modes such as shipping and trucking, the silence on these train tracks can vibrate far beyond our waters because CP Rail is a vital link in moving freight to and from Canada's West Coast ports, which are an important part of the Asia-Pacific Gateway.

This strike is preventing our ability to keep our products moving and is undermining Canada's reputation as a reliable place to do business. To give you an example, right now in the

Port of Vancouver, there are six ships waiting to be filled with grain to be transported overseas, and there are eight more on the way. It takes half a day to load a ship. We have lost nine days of loading. Even when the trains do start rolling, it will take weeks for the backlog to clear; and customers do not forget this. This is a setback from which it could take years to recover lost business and lost investments.

The assertion is made that shippers can find alternate ways to move their goods. We have two Class I railways in this country. It is true that Canadian National has some capacity to move freight. CN's estimates were that it could pick up nearly 10 per cent of CP Rail's grain traffic but probably less for other sectors. The fact remains that about 20 per cent of CP Rail traffic does not have direct access to CN's rail network anyway — they do not link up. We cannot count on CN to pick up the slack during the strike; and VIA Rail cannot help fill the void because it is designed to transport passengers, not freight.

Most importantly, we cannot rely on a speedy conclusion to negotiations because they have dragged on without success; they have met an impasse; and they have broken down. We, as Parliament, as government, must act. There are 60 years of parliamentary procedure and precedence for a government to introduce back-to-work legislation in a rail industry dispute. The bill before you does not circumvent the collective bargaining process, especially considering all the support we have been giving to help the parties reach a solution. We are certainly not moving too quickly. In fact, we have copious numbers of letters from concerned stakeholders right across the country. They are telling us that the stakes are much too high to wait for the parties to have a change of heart; and they are asking us to intervene.

Finally, the rail industry is not a self-contained sector that we can leave to its own devices. It is an integral part of the economy. It is linked to other modes of transportation in a great logistics chain and to the producers who depend on rail to deliver their goods. It is an interesting fact that Canada's rail system is the third largest in the world.

The work stoppage at CP Rail is having serious repercussions, and the government cannot let it continue. There is no question that it is best for parties in a labour conflict to resolve their own differences, but the parties in the CP Rail dispute have been trying now for some time, and they have not had success. There is absolutely no reason to believe that they will be successful in the days ahead. In this time of global economic uncertainty, Canadians have given our government a strong mandate to protect the national interest. When we look closely at the implications of a strike at CP Rail, we see billions of dollars and more than a million jobs hanging in the balance. As every day goes by, the costs will increase.

In the best interests of all Canadians, the government is acting. Today, I am asking the Senate to pass Bill C-39, which will end the work stoppage and provide the parties with an interest-based binding arbitration process to help them resolve their conflicts. I urge all senators to give this bill consideration and rapid passage for the benefit of all Canadians. Thank you.

**The Chair:** Thank you, Madam Minister. Do any of your officials want to make an opening remark?

**Ms. Raitt:** No, that is fine.

**The Chair:** As indicated by the deputy leader at the beginning, this panel will last a maximum of 45 minutes. We have 30 minutes left. I have a lengthy list of senators, starting with the Honourable Senator Cowan.

**Senator Cowan:** Welcome, minister. I have two questions I would like to put. You said repeatedly, publicly and here today, that you believe that back-to-work legislation is not the ideal solution and that it is much better to have the parties freely negotiate arrangements between themselves in regular collective bargaining. You said that the government only intervenes in situations where the public interest is seriously threatened, which is the case today. You have used the figure of \$540 million a week, and Senator LeBreton has used the figure of \$75 million a day, and that is why your government is intervening.

My question is a simple one. You say you do not want to intervene in private disputes and that negotiated settlements are the best solution, but that here the cost to the Canadian economy is too high. What is the government's threshold for intervening in a private dispute? Is it \$75 million a day or some lower figure?

• (1440)

**Ms. Raitt:** Thank you very much for the question, senator. Indeed, those are the numbers. In fact, one could almost say that the numbers are conservative, as it were, because they are taking into account only four of the bulk commodities that utilize rail to any extent. They are good numbers, nonetheless.

In 1995, it was estimated that a seven-day or eight-day strike cost between \$3 billion and \$5 billion. Economists are open about the fact that it will be hard to determine exactly what it is, but we do know it is a very large number and we do know that there are real effects happening out there.

**Senator Cowan:** I do not dispute that. I wonder about the threshold you use.

**Ms. Raitt:** Of course every strike, every work stoppage in Canada has its own repercussions and we take a look at those seriously, but one tends to see, as history will show, they are in the larger transportation networks. It is those networks that are incredibly important and linked to the economy. I would say there is no number that we look for. We do not measure in terms of an absolute number. We consider it in terms of its effect on the national economy.

The second thing I would say as well, if I may, is that there are over 400 collective agreements that are negotiated in the federal jurisdiction every year. Last year we had 13 strikes and we had two interventions. There are very good statistics of people negotiating first and getting to their deals, and our level of intervention is quite low.

**Senator Cowan:** I was attempting to determine whether there were some criteria you would indicate to us, and to those who have been engaged and are likely to be engaged in these kinds of disputes in the future, so that they would be able to weigh the likelihood of government intervention.

**Ms. Raitt:** I can give examples from the past which we have used already. In the case of Canada Post, we indicated what the cost was to the economy. In the case of Air Canada, it was two factors. It was the cost to the economy, but equally important was the effect on the public interest of the 100,000 passengers per day who would have been stranded around the country and, indeed, around the globe in the case of a shutdown of Air Canada at the time. In this case the numbers, as indicated, are clearly ones that you are not looking for a certain level. It is on a case-by-case basis. We look at the facts.

If I may say, the other thing is that it is also important to determine how close the parties are to concluding their own agreement and determining the intervention and at what point the intervention happens. Indeed, that is what happened in this case, too.

**Senator Cowan:** My other question relates to a comparison between this bill and Bill C-33. In that bill, you put in final offer selection arbitration. That was particularly offensive to the Air Canada unions and perhaps was the reason for their strenuous objection to the legislation.

What criteria, what logic and what reasoning did you apply in this case so that you, thankfully, did not put that restriction in the bill? Also, while you were at it, why did you not put in the restrictions on the ability of the arbitrator to deal with the issues at hand? You circumscribed that to some extent in the last bill, which you did not do here and, again, I congratulated you on that earlier this afternoon. Perhaps you could explain why it was appropriate in that case and it was not appropriate in this case.

**Ms. Raitt:** First, I do want to say that I do believe that interest-based and final offer selection are both very valid types of arbitration, and which one you choose to implement or which one you choose to put in our legislation is determined by the facts of the case.

If I could for a moment indicate that in this case — and it answers the second part of your question, as well — CP is an extremely private company. It has no government investment. The Government of Canada does not have a responsibility or a liability for their pension plans. The taxpayer is not involved in it at all. As a result, it is treated differently from a company such as Canada Post, which is a Crown corporation, or Air Canada, which has had government assistance.

The second thing I would also say is that the facts in Air Canada, if we can remember, were that, in the case of the IMAW, they had failed ratification. They had a conciliation commissioner who wrote a report and got them a deal and it failed on ratification. They went back to the table to try it again and again they were unable to get to a deal. In the case of the pilots, they had tentative agreement as well and it was rejected on ratification.

The parties had negotiated a longer time — much longer, almost two years — had really hashed out all of their issues, and were at the point where they could put two final offers in and an arbitrator would be able to choose.



With respect to CP Rail, the issues of pension and operational matters were not conclusively dealt with at the table and, as such, interest-based arbitration is more appropriate and that is why we put it in there.

Finally, in terms of guiding principles, again, I would remind senators that CP Rail is a private company. In fact, if you look at railway intervention legislation from this government from 2007, 2009 and now today, you do not see guiding principles in any of those bills.

**Senator Cowan:** Thank you.

**Senator Segal:** Minister, welcome. Before I ask my question, let me express my appreciation for the very hard work that you and your department have done on this issue and the clarity of your communications to Canadians about the sorts of choices you are faced with.

That being said, the long frame of government intervention before this administration and during this administration in transport-related national strikes does produce a pattern. I am sure from your own analytical frame, and as a member of the bar and business person prior to being elected, you will have the same feeling we all would that when these patterns are created over time they have to have some impact on the bargaining mindset of both sides.

Do you worry at all as minister that one of the unintended consequences of you doing what is precisely necessary in the national interest in this circumstance is to further feed the pattern that there is no real need for either side to give or bend or reach or stretch to achieve a negotiated settlement because, in the end, Her Majesty the Queen, through the able Minister of Labour, will intervene in the national interest? Why engage directly and make those kinds of undertakings, if they are going to be avoided because of the structure of a historical relationship between the federal Crown and these kinds of disputes?

**Ms. Raitt:** Thank you very much for your question. It is troubling to realize that this is the third time that I get to appear in Committee of the Whole here in the Senate. In fact, one of my colleagues said that I am probably the one member of Parliament who has done it the most in this past period of time.

That being said, I hear the criticism that the continued intervention is setting up a pattern. The difficulty is that intervention is only determined in order to protect the greater Canadian public interest. It is an obligation, at the end of the day, to ensure that the economy works.

Being in government, you have to make tough decisions. I hope the companies and the workers will take from what officials will say and what I will say to them very frankly at the table is "Do not count on us, do not count on the arbitrator of your choice, and do not count on the type of arbitration you want coming your way, because there are no guarantees."

Quite frankly, I would say to companies, as a former CEO, I would much rather hold the destiny of my labour agreements in my own hands through voluntary arbitration with an arbitrator

that I pick than, essentially, roll the dice and let a body in Ottawa determine how important issues like pensions are going to be decided for the future of my company. This is the reality of what is happening here today.

It is not meant as criticism to CP Rail or to the Teamsters, but two years ago Minister Flaherty provided our department extra funds for preventive mediation, because we wanted to show the parties, with these difficult issues in front of them, they should start negotiating even before their collective agreement is coming to a close. They should be in there seriously talking to their employees about challenges they may be having. That is the effort we will be making. We will redouble our efforts. We watch negotiations from the very beginning, before the collective agreement expires.

In the case of CN, although in 2009 we had to table back-to-work legislation, last year CN was able to conclude their agreement before the collective agreement actually expired. That was a great success. That is because they understood that they almost let someone else make their decision. Indeed, in 2007, they let someone else make their decision on matters.

• (1450)

I would say that going to Parliament and asking for back-to-work legislation is a bad business strategy, and it does not help the companies because the uncertainty of what they could see in the legislation will always be there. At the end of the day, we are on the side of the Canadian public and the national economy, and we will determine what is most appropriate in the bill as a result of that.

**Senator Segal:** With CN having reached an agreement before the lapse of their prior agreement, which is a credit to both management and the unions at CN, do you worry that, in a sense, CP is being rewarded, by government intervention to solve the problem, for not having reached an agreement? CN, who competes with CP, was the beneficiary of no such support. Do you worry about unwittingly tilting the balance between Canada's two competing railways in what is a very competitive framework?

**Ms. Raitt:** Not at all. The legislation itself is actually quite neutral. What will happen is that the parties will go in and have an opportunity to make their best pitch, for lack of a better word. They will be able to negotiate at the table what they have in an agreement. They are ultimately leaving their future collective agreement in the hands of an arbitrator to pick some of one and some of another and cobble it together based upon the principles of arbitration and gradualism and the attempt to duplicate what would have happened had the strike gone on for a number of weeks. That is why the legislation is drafted as it is, to allow them to conclude it in the fairest way they can.

**Senator Segal:** Thank you.

**Senator Tardif:** Welcome, Madam Minister. We always appreciate your visits here in the Senate. However, it is becoming a habit.

As you have indicated, this is the third time in the period of one year that you have used back-to-work legislation to shut down labour negotiations. Your government is getting a reputation for being labour interventionists.

My question is somewhat in the same vein as Senator Segal's. Given your government's pattern of labour intervention, why would Canadian Pacific's management not have expected your government to eventually intervene and not have held back accordingly in its negotiations with the Teamsters?

**Ms. Raitt:** Just to clarify, we did not shut down labour negotiations; the parties can negotiate. I know that they are appearing here today. Perhaps they should have a conversation before they come in here to see you, but they can continue to negotiate. They can negotiate even when the legislation is passed. They have the ability to do their own deal, right up to the point of the arbitrator setting out his or her report.

That being said, it is an extraordinary measure in the history of Canada's Parliament, and it has been used 36 times, predominantly in the transportation sector.

There was another cluster of back-to-work legislation that occurred in the mid-1990s, three times in a period of 13 months. Two ministers had to come in and ask for back-to-work legislation, in the case of the West Coast ports, for both the foremen and for the longshore workers in 1994-95. Again, they had to come in for a massive shutdown of the railway — CP, CN and VIA — in 1995 as well. One could say that I, at least, get a respite. I was last here in March. In 1995, the minister at the time had to come in here one week after another. It was one week for one and then the next week for the next one.

These things can and do happen when collective agreements are expiring and when important issues are at the table. Taking a lesson from history, government intervention is consistent in major strikes like rail, ports or air traffic. However, it is not continuous. Indeed, CP Rail, since 1995, has negotiated its own collective agreements every single time.

**Senator Tardif:** I believe that the 1995 situation was somewhat different. It included all three national rail companies — CP, CN and VIA — and some 30,000 unionized rail workers, compared with 4,800 today. That is quite a bit of a difference. It effectively shut down the entire Canadian rail system, and CP Rail workers were doing rolling strikes for five days before they were locked out. In this case, the situation is somewhat different.

Professor George Smith, a former director of labour relations at Air Canada and vice-president of human resources at CP Rail, will be appearing before us later on this afternoon. He has said:

This has all the appearances of the federal government doing what is best for the country but really it is a disaster. If you are negotiating a difficult labour contract, the process is being taken out of your hands and the government will do it for you. The showdown element which hurts in the short run but which results in a fair settlement is gone.

We have seen that so-called showdown element start to evaporate ever more quickly since your government has come to power because of the reasonable expectation of management that your government will ultimately intervene.

As you have indicated, labour disputes are never easy or simple. I can understand the difficult dilemma you face with every new dispute. However, with all due respect, do you not worry that these dilemmas are starting to become partly of your own doing?

**Ms. Raitt:** My worry is for the families of the workers who, through no fault of their own, are laid off because of an ongoing rail strike. I do agree that the rail issue in 1995 was dire, but it was allowed to get to that point. Perhaps better intervention, at an earlier time when there was an economic impact, should have happened. The Prime Minister said in 1995, as a member of Parliament, that the criticism was that the government of the day did not act quickly enough. I agree with that sentiment. That is why we are very closely attuned to the needs of the economy. Canadians gave us that mandate, and, as a result, we watch very closely to ensure that we do not get to that situation where we have that kind of gross and disproportionate economic effect on Canadian families.

In that case as well, four plants did shut down, which had a serious economic impact on southern Ontario. Buzz Hargrove was, at the time, in favour of the back-to-work legislation because of the economic impact that the strike was having.

In our case, in 2012, we see what the impact is because we can learn from history, and we do not want to repeat that disaster.

[Translation]

**Senator Carignan:** The government is often criticized for frequently intervening — although it has happened only three times — in the bargaining process.

I would like to tell you about the situation in Quebec, where we do not hear about this kind of special legislation as often, because the Quebec Labour Code has a section that addresses essential services. In those areas, strikes and lockouts are prohibited unless essential services are maintained. I have the list, and this section includes telephone companies, which, if they are regional, come under provincial jurisdiction. This list also includes enterprises that produce, transport, distribute or sell gas, as well as land transport services such as a subway or bus and boat transportation services. When workers want to strike in those areas, essential services must be maintained, otherwise, they will be engaging in an illegal strike or lockout.

Strikes and lockouts are also illegal in police services, for instance. Thus, in various domains, strikes and lockouts are completely prohibited. Such cases are a long way from negotiation. There are also other situations involving important essential services. Sometimes up to 90 per cent of the service must be maintained, depending on the ruling by the essential services division of the commission.

• (1500)

I believe that these provisions are more harmful to free bargaining than the Canada Labour Code, because the federal government only intervenes occasionally and selectively.



However, is the government thinking about this plan of prohibiting strikes or lockouts in certain fields or about reviewing the conditions for essential services in these fields, in order to reduce the passage of special legislation? If so, where are we on that? If not, why not?

[English]

**Ms. Raitt:** Thank you very much. Under the Canada Labour Code, essential services are limited to health and safety matters. If it is an immediate and serious danger to the health and safety of the Canadian public or of the public, then a service can be deemed essential and activities have to be maintained. We do not have that situation in the case of CP Rail today.

We always look at it. When there is going to be a strike or a lockout, we always look and determine within the department whether or not there is a health and safety aspect to it. In this case, the parties agreed that there was none, and we agreed with the parties that there was no health and safety aspect.

Our intervention is based upon the economy, and the Labour Code does not allow the definition of essential services to include anything that affects the economy. It is very limited.

I appreciate your point of view, and I am aware of other legislation in other provinces that deals with it in a different way by deeming it, but I would say that from an instinctive point of view, the one thing we can see specifically speaking to rail is that the industry changes and there is competitiveness. The structure of the industry may be different three years from now and may be different five years from now, so it is more appropriate in this case to approach it from a back-to-work legislation point of view than it is to seek out any changes to the Canada Labour Code that would be needed.

That being said, it is an open topic of discussion for myself at my ministerial advisory committee, and that includes academics and union and labour representatives. At this point in time, they do not believe that their workplaces would like to have that kind of legislation.

That being said, health and safety is the priority of this government, so we want to ensure we are doing the right things and continuing to foster economic growth. I take your comments and would love to talk with you again about it. I am always happy to have discussions about how we can move policy forward and make it better for the country.

[Translation]

**Senator Rivest:** Madam Minister, I listened to your answers, in particular the answers you gave to Senator Cowan. I am concerned about the government's policy with respect to the right to strike in the public or quasi-public sectors that fall under the Canada Labour Code.

You said that, with respect to Canada Post, Air Canada or CP, you had assessed the costs of the right to strike and that you determined that the costs were so prohibitive that, in the best interests of the country, you would intervene to put an end to the strike.

[Senator Carignan]

The labour code recognizes that workers in these sectors have the right to strike. You have intervened in three sectors in recent months. If you believe that the right to strike causes serious damage to the economy, why, as Minister of Labour, do you maintain the right to strike of workers in these sectors whose right to strike causes irreparable damage to the economy? For these workers, what is the point of having their right to strike recognized? You made a judgement call in these three cases. We can imagine that there could be strikes by air traffic controllers, by workers at port facilities, and so on. Will it be the same thing?

In response to Senator Carignan, you said that essential services within the meaning of the Labour Code are an open topic of discussion. Will the new direction the government is taking on the right to strike be part of that discussion?

I would like to remind you, Minister, that the right to strike — and surely you know this better than I do — is a consequence of the right of association and the right to free collective bargaining. Clearly the right to strike always causes inconveniences. If not, there would be no point to it. Its point is to exert pressure. I am not asking for a definitive response, but what is the current status of the discussion?

As a result of your actions, the labour movement is extremely worried that the current government could challenge the right to strike.

You spoke a lot about the interests of businesses and the economy, but there are also the interests of workers. The demands being made by workers at Canada Post, Air Canada and CP Rail must be taken into consideration. In the past, we decided that the way to take those demands into account was through fully recognizing the right of association, the right to free collective bargaining and the right to strike.

Can you reassure all unionized workers in Canada, in the public and public services sectors, that the right to strike is still a value in which the government believes?

[English]

**Ms. Raitt:** Thank you for the question, senator. I cannot speak to the public sector. In my role as Minister of Labour, I work with the federally regulated private sector, so my comments are distinct for that.

It is very true, and you put it extremely well, that the government looks at the prohibitive costs to the economy when you balance it in terms of the rights of the workers to strike. In this case, we did not act until day six of the strike in hopes that we could get the parties to some kind of an agreement or a voluntary arbitration process. When we realized that that was not going to happen, the costs become extraordinarily prohibitive because you see no end to the strike and you realize that they have no way to find their way through the process.

It is not just an effect on the company. I agree that a strike is an economic tool of withdrawing services from the company in order to make the company come back to the table to do the deal, but it had the effect on the greater Canadian public to such an extreme that it begs for governmental intervention. Indeed, we view it as

our obligation. It is more than merely inconvenience that the Canadian public is experiencing. They are experiencing severe consequences because of an inability of two parties at a bargaining table to get a deal.

I will tell you that there are no changes planned at this time. I have no plans to change the Canada Labour Code. A number of years ago, our government did commission the Annis report. It was a very comprehensive report talking about what changes, if any, would come to the Canada Labour Code. I will tell you that there was no consensus among the parties as to what to do with respect to Part I of the code. Moreover, the parties actually thought that the code met their expectations, helped them in their day-to-day activities, helped both employers and unions, and set the appropriate framework. That is why I say we have no plans to change policy. We will continue to analyze and assess the effect that a strike or lockout would have on the Canadian economy and the Canadian public interest and treat them on a case-by-case basis.

That being said, we are putting great efforts into preventive mediation and to help the parties through either conciliation, commissions, through officers.

If I may, in terms of the West Coast ports, I am actually very proud of the work that our department did in that both for the longshoremen and for the foremen of the ILWU with the B.C. Maritime Employers Association. They were struggling to get a deal, and they were without a deal for about two and a half years. We used some very creative means within the Labour Code to appoint a preeminent retired judge to help the parties, and the parties submitted to this voluntary mediation. As a result, they ended up with an extraordinary eight-year deal on the West Coast ports to ensure the stability of the Asia Pacific Gateway in both unions. That is the good news that happens when you allow people to find their time at the table. That is why I always say it is the best result you can get.

• (1510)

However, the parties needed to voluntarily submit, because the Canada Labour Code gives the minister zero power to intervene, other than through the tools in the Canada Labour Code. Therefore, we need to work with the parties, and we will continue to do so. I wish in this case that the parties had taken the offer of the officials for a voluntary arbitration on a compromise position so that we could have avoided this.

[Translation]

**The Chair:** Madam Minister, on behalf of all the senators, I thank you for joining us today and for helping us with our work on this bill. I would also like to thank the employees from your department.

**Senator Carignan:** Honourable senators, I ask that we invite the next witnesses, the representatives of the employer, to participate in the deliberations of the Committee of the Whole.

**The Chair:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

[English]

**The Chair:** Mr. Peter Edwards, Vice-President Human Resources and Industrial Relations, Canadian Pacific Railway Limited, and Mr. Mike Franczak, Executive Vice-President and Chief Operations Officer, I welcome you to the Senate of Canada. I would invite you to further introduce yourselves for the record and then to make your opening remarks. Following your opening remarks, honourable senators will have some questions they wish to pose to you. You now have the floor. Welcome again.

**Mike Franczak, Executive Vice-President and Chief Operations Officer, Canadian Pacific Railway Limited:** Honourable senators, I am the Executive Vice-President and Chief Operations Officer of Canadian Pacific Railway, and I am joined today by Peter Edwards, Vice-President of Human Resources and Industrial Relations.

During these important negotiations with the Teamsters, running trades employees and rail traffic controllers, I have been personally involved and have sat directly at the negotiating table. We very much appreciate the invitation to appear before you today to discuss this important issue and urge you to move today to pass Bill C-39. The current strike is having a direct negative impact on the Canadian economy, our customers, our employees and our company. Every hour matters and, hence, we ask you to act with urgency.

Canadian Pacific operates a transcontinental railway in Canada and the United States, and provides logistics and supply-chain expertise. We originate 10,000 shipments per day for 3,000 customers. With over 17,000 employees, we operate a network of approximately 24,000 kilometres, serving the principal business centres of Canada, from Montreal to Vancouver, as well as the Northeast and Midwest regions of the United States.

We transport bulk commodities, merchandise freight and intermodal traffic. Bulk commodities include grain, coal, sulphur and fertilizers. Merchandise freight consists of finished vehicles and automotive parts, as well as forest, industrial and consumer products. Intermodal traffic consists largely of high-value, time-sensitive retail goods in overseas and domestic containers that can be transported by a combination of train, ship and truck.

Intercity passenger service in Vancouver, Toronto and Montreal also operates all or in part on Canadian Pacific. In a good-faith gesture, we allowed those commuter operations to continue during this strike.

It is clear that Canadian Pacific is a core enabler of the Canadian economy, moving people and shipping commodities worth \$135 million every day. We must get back to moving the nation's commerce.

I will now turn things over to Peter Edwards, who will discuss our negotiations to date.

**Peter Edwards, Vice-President Human Resources and Industrial Relations, Canadian Pacific Railway Limited:** Mr. Chair and honourable senators, to begin, I would like to make it very clear that CP entered these negotiations in good faith, and we continue



to conduct ourselves in that manner. At CP, we have a long history of collective bargaining and work stoppages are the exception, not the norm. It has been 17 years and dozens of ratified collective agreements since the government had to introduce legislation to end a work stoppage at CP, and that was part of an industry-wide, back-to-work legislation. I should also point out that in the interim, the three strikes we have had have all been with Teamsters-represented employees.

Where did it begin? These negotiations started in October 2011. Since then, we have met 10 times, for 55 days, in five cities across Canada. Over these seven months, CP has tabled numerous offers on the key issues. It should be noted that we made very little headway in the early months and, for that reason, CP requested the service of the Federal Mediation and Conciliation Service in February.

With the assistance of the FMCS mediators and conciliators, progress was made and, as conciliation drew to a close, we stood ready to extend the negotiations or to agree to an arbitrated process between the parties, with rules that we could mutually agree upon. The Teamsters would not agree to either.

The key issue that remained was, and is, the future levels of our defined benefit pension plans for active Teamster employees. We had made progress on the issue with the Teamsters; however, there remained a gap. While we continued to negotiate on this issue, the Teamsters struck.

CP faces a huge challenge related to the solvency of its defined benefit pension plan. We are not alone in having this challenge and, like other defined benefit plan sponsors, we have taken direct action to address it. For example, in addition to the \$229 million in current annual service costs, CP has paid \$1.9 billion over the last three years towards solvency deficits. CP is a responsible plan sponsor. Despite this, we still have a substantial deficit, which is expected to grow.

The \$1.9 billion is double our annual capital expenditures, which are generally 20 per cent of revenue. This is the highest of any business sector. Yet, our solvency liability continues to grow. This is not sustainable.

Honourable senators, plan design is the core issue. The problem has been compounded by current economic conditions, including low long bond rates, volatile equity markets and increased longevity. Each of these will continue to increase the liability and require large funding amounts well into the future.

• (1520)

This pension liability increases our cost of capital by affecting our credit rating. It increases our stock volatility and our ability to compete in capital markets when compared to our railway peers.

The teamsters have been saying we have been waiting for others to fix our problems. This is simply not true. To reduce our future costs and exposure to volatile market conditions, we are doing everything we can to control our pension requirements, including closing the plan to new non-union members. Their only option now is a defined contribution pension plan.

[ Mr. Edwards ]

The next necessary step in addressing the problem is limiting the amount of overtime in the pension calculation and bringing our plan's provisions closer in line with all other North American railways.

Even with our proposed changes, our negotiating position results in a plan that is more generous than our main competitor. This is the issue we are negotiating in good faith, a tough one that unfortunately we have been unable to resolve so far.

I also want to make it very clear that we have never attempted to reduce the benefits payable to current pensioners or the benefits employees have earned to date. Employees that are close to retirement would only be marginally impacted. We do need, however, to address our multi-billion dollar future solvency liability.

Currently, a top-ranked CP locomotive engineer receives a maximum annual pension of \$93,000, approximately. That is not including CPP and OAS. To put that number in perspective, the average Canadian working wage is \$44,000, and in 2009, the average private pension plan income for Canadians aged 55 to 64 was \$26,500.

CP unionized wages and salaries are comparable to CN, but in terms of pension, the gap is very wide. A teamster-represented employee at CN has a capped annual pension of \$60,000, still well above the Canadian average. The difference between the maximum possible teamster-represented CN pension and the CP teamster-represented maximum pension is therefore more than \$32,000, or 50 per cent higher at CP, and growing. Compared to their American colleagues, a CP running trades employee with a maximum total pension of \$93,000 would receive more than four times what you would receive with a U.S. railroad.

Let me highlight that this week the teamsters in CN announced they had concluded a new collective agreement, one which perpetuates the \$60,000 cap. They have done a number of these this year. Our goal in the negotiations was to reduce the gap with our competitors, not eliminate it. Throughout the talks, we also bargained on other matters — health spending accounts and work rule proposals. These are important issues and our proposals are more generous than those of CN, as acknowledged by the teamsters. The real issue here is an unsustainable defined benefit pension plan, one that jeopardizes the near-term and long-term viability and the competitiveness of CP.

Now, let me turn back to Mr. Franczak to summarize the impact this teamster strike is having on our economy and our company.

**Mr. Franczak:** The impact of the teamster's work stoppage to the Canadian economy is extensive and affects many sectors that are critical to Canadian competitiveness and participation in world trade. The strike is impacting everything from the movement of prairie grain for export, metallurgical coal to world markets and even food to the nation's grocery stores. Many plants have been shut down across Canada, including chemical production, grain processing and manufacturing sectors.

The number of our customers experiencing extreme stress increases substantially each day the work stoppage continues, and the global reputation for Canada in terms of supply chain reliability diminishes. Currently, we have now impacted 64 automotive distribution facilities, and with facility shutdowns come layoffs, including the over 2,000 other workers at CP alone. With every hour of delay in restoring rail service, there is an increasing damage to the Canadian economy. Even if legislation is passed, it will take time to safely return to full service levels for all of our customers.

For the foregoing reasons, we urge you to end this strike now. The current work stoppage is having a direct negative impact on the Canadian economy, our customers, our employees, our company, and is affecting its long-term competitiveness. Once our employees return to work, we remain committed to good faith resolution of the important issues at the table. Every hour matters and we ask you to act with urgency.

We thank you for this opportunity and we welcome now any questions you may have.

**The Chair:** Thank you both very much.

Before calling for questions, I want to remind honourable senators that under the order of the Senate I have an obligation to terminate debate on this panel when 45 minutes has expired.

**Senator Seth:** Mr. Edwards, it has been made clear that Canadian industries cannot afford a continuation of rail strikes at \$540 million a week. Can you tell us if you are thinking of the millions of Canadian families, including your own, that will be negatively affected by this strike? How much longer will CP Rail hold Canada's economy hostage if legislation is not passed to get trains moving again?

**Mr. Edwards:** Honourable senator, thank you for the question. We did not seek the strike. We did not lock employees out. In fact, we remain committed to going back to the bargaining table and continuing to discuss with our unions a settlement that is sustainable for CP and fair and equitable for the members.

**Senator Campbell:** Did CP negotiate the pensions that we are talking about here?

**Mr. Edwards:** The lack of a cap, no. The fact it got to \$93,000 was not negotiated.

**Senator Campbell:** How did it get there?

**Mr. Edwards:** That was accidental, actually.

**Senator Campbell:** It was accidental? The \$93,000 was an accident?

**Mr. Edwards:** In the sense that when the pension legislation was changed to allow a moving cap — that was done by the federal government — CP elected to do an automatic escalation. This was not negotiated. Our competitors did not and chose to stick with the cap that was put in place at that time and not adjust it, so ours has been escalating in an unconstrained fashion.

**Senator Campbell:** Would you agree that we find ourselves here in the middle of a strike because of the poor business habits of CP?

**Mr. Edwards:** I cannot comment on what was done in the past.

**Senator Campbell:** No. We keep talking about the past here; we keep talking about past strikes. I am in a quandary with regard to how CN gets to have their pension down to \$60,000. I agree with you that \$60,000 is still a very substantial pension. There is no question about it. However, I would like to know how we end up on a strike because of pensions that you in fact are responsible for.

**Mr. Edwards:** Many pension plans across Canada, defined benefit pension plans, are facing the same challenge.

**Senator Campbell:** I am not asking about anybody else; I am asking about you.

**Mr. Edwards:** Okay. I am trying to understand the question, senator.

**Senator Campbell:** The question I have is that you find yourself in an untenable position from a business point of view because of high pension caps.

**Mr. Edwards:** Yes.

**Senator Campbell:** Your company made a business decision to go with that rather than another route, as CN did.

**Mr. Edwards:** Yes, sir.

**Senator Campbell:** Therefore, we are basically being asked to help you out of a huge bind that is of your own making.

**Mr. Edwards:** The problem not only exists for us; it exists for other companies as well.

**Senator Campbell:** No other companies are here. I can only hope your new board can get this straightened out because clearly the last one did not.

• (1530)

**Senator Wallin:** We have been looking at the implications of this work stoppage on the economy in the short term — \$540 million per week. In straight up costs, we have \$50 million worth of grains sitting in elevators instead of on the rail. The thing that has troubled me is that even if this legislation were to be passed 10 minutes from now, you still have to get things back on track. In those days, we will see the difference between people having jobs and not, companies keeping doors open and not. How long does it take you to get back on track, as it were?

**Mr. Franczak:** It will take approximately two to three days of full operation to begin to restore service and volume levels to their pre-strike levels. Once legislation is passed and the appropriate time is upon us, we would begin to have to position crews to man trains. We would have to begin the process of inspecting trains for departure, main tracks and so forth. It is a very deliberate, staged,



safe start-up to resume operations. It will take at least two to three days before we are back to pre-strike levels. It will take some time again to try to work off the backlog fully.

**Senator Wallin:** That was my next question. You have a lot of goods sitting there.

**Mr. Franczak:** Clearly, some business has gone over to CN during this work stoppage. We will not see that business back on our lines. There is, however, to your point, grain in inland terminals, and containers in ports in Vancouver and Montreal, for example, that are waiting to be moved. Honda is full in terms of the number of vehicles they have on the ground representing several days of production. All of that will have to be worked off and moved in the coming weeks.

**Senator Wallin:** I think that is one of the other concerns, particularly in the just-in-time sector. The auto industries themselves have said that if you start to shut down a production line, that is a huge number instantly, more than \$1 million an hour, and then you have to try to kick-start that again. These are big numbers out there. Do you think the figures we are using are close? I do not know what you are using in terms of costs.

**Mr. Franczak:** They are very similar, senator.

**Senator Munson:** There is no doubt that this afternoon, with the government numbers, this bill will pass. I do not know about collective bargaining, if there is any in this country any longer. You can have the government legislate away your pension problems, but when you are back at work with your workers, I am sort of concerned about mood and motivation. We have seen the results of the Air Canada strike and their being legislated back, the mood that is taking place and the feeling amongst pilots and flight attendants. You see that in the service and every day.

Once this legislation is passed, how do you see relations between management, the workers and the labourers, the people who actually keep the railway running? Do you see it more damaged or relatively unchanged? Could you talk a bit about those plans with respect to industrial relations, or as I would rather put it, human relations, getting up each and every morning and saying, "Yes, I want to go to work for this company"?

**Mr. Edwards:** Thank you for the question. After this bill is passed, if this bill is passed, the problem is not gone. We have a pension plan that we had to put \$1.9 billion in. We continue to put more money in. The problem continues to grow. We have to put as well \$224 million per year in current service costs. The problem continues. The difference between us and our primary competitor is still huge. Even after our proposals, it will still be big.

We were not looking to have a work stoppage. We asked for an extension of 14 days. We agreed to an extension of 120 days. We said we would meet on terms agreeable to both parties before legislation, months ago, saying, "Let us sit down." Sometimes, even the most reasonable of people cannot agree on an issue because the issue is too difficult. Internal politics, perhaps with the union, make that decision to accept something we are offering very difficult. Sometimes a third party is needed. It is not the first choice, but it is an intelligent choice.

I think our first action will be to go back to the table. I have told my people to be ready. The passage of this legislation, while putting people back to work and ensuring that the Canadian economy will be back on the track to health and success, is an important part, but renewing our relationship with our unions, continuing those negotiations right up until the time, perhaps, that an arbitration award is awarded, if we cannot settle before then, is something we will do. Why? I would rather have a deal that we can strike, but we cannot have the Canadian economy suffer because reasonable people cannot agree on a deal.

**Senator Munson:** Does CP make money each year or lose money each year?

**Mr. Edwards:** You will need to talk to the financial people about that. I will tell you that last year we had a negative free cash flow of \$724 million, and \$600 million of that was related to pension. The quick lesson on finance is that \$724 million more went out than came in. That is not sustainable.

**Mr. Franczak:** It is important to note also that we did have to borrow to deal with that funding issue. Our credit rating is now BBB-, one level above junk. This is a serious issue for us. We will find it impossible to continue to maintain the level of investment we need as a company to remain competitive, to drive safety and efficiency further into our business, to grow and prosper as an ongoing entity.

**Senator Munson:** Do you think that this legislation will help alleviate what you describe as negative impact?

**Mr. Edwards:** I think we will put something to an intelligent person and ask for their help. I hope it helps. What we are asking is for more than they get everywhere else. We are offering a pension today than is more than they get at CN, and according to the CEO of CN this morning in the paper, he has no intention of increasing theirs. Ours will be better. Our health spending account will be better. Our terms and conditions will be better. Those are the rules we have on the table.

Our operating ratio is above 80. The competition's starts with a 6.

**Senator Munson:** Is it profit or people?

**Mr. Edwards:** Pardon?

**Senator Munson:** Is it profit or people that we are talking about here? The bottom line, I guess, is it is profit for CP; is that right?

**Mr. Edwards:** Any great organization is driven by its people. I think we all agree on that. That is why we are ready and willing to go back to the table when our employees come back to work to continue to negotiate.

**Senator Segal:** I have a brief question for our guests from Canadian Pacific. I think earlier one of you indicated that you would have liked to have seen a further extension to negotiations. I was led to believe — I may be mistaken and I am glad to be corrected — the government suggested and was prepared to support an extension to negotiations of 120 days and that both

management and the unions turned that proposition down. If that is incorrect, I offer you a chance to put the correct fact on the record.

**Mr. Edwards:** We offered to extend long before the strike occurred. Back in Vancouver was the first time we talked about some alternative dispute resolution. We offered extensions a number of times, 14 days, 120 days. The last part, which perhaps the minister is referring to, was just a few days ago when the Federal Mediation and Conciliation Service — we are thankful for their services — presented us with a document and said, “This is a take it or leave it; can you take it or leave it with the words exactly as is?” At first we thought, “No.” Then we saw it with sober second thought and we said to ourselves that, with a couple of small modifications, we could live with it. It is not everything we want. We do not like it, but for the purposes of moving the process forward, we can live with it. I met one-on-one with Doug Finnon, the teamsters’ head, and he said “Well, we cannot.”

• (1540)

We agreed at that point in time that there was no use in meeting and that we could meet again in the future. I think that would be the answer.

**Senator Segal:** Thank you.

[Translation]

**Senator Dallaire:** My question is about your competitors. First, given the fact that all of the industries affected by this strike are suffering greatly because you cannot transport their products, could your competitor, CN, not step in?

Second, have these companies threatened to take their business elsewhere?

Third, have they considered using trucking companies? What feedback have your clients given you about the future of their contracts with your company?

[English]

**Mr. Franczak:** Thank you for that question. CN has been able to move some Canadian Pacific traffic. They have been able to move, for example, some container business off the Port of Vancouver, as well as some of the potash business that we would normally carry to that port.

Alternatives, however, are limited for the vast majority of our customers. Trucking is not generally an option, especially for those with large bulk shipments to make. CN’s ability to move more product to Vancouver is limited by the fact that our side of the co-production zone — we operate between Kamloops and Vancouver, for example — has been shut down as a result of the strike.

In effect, the vast majority of our customers have not had an alternative in terms of moving their product either by truck or by CN, and it is necessary for us to get Canadian Pacific back to work so they may be able to move their products to their destinations.

**Senator Lang:** I would like to follow up on Senator Munson’s line of questioning.

Perhaps you could elaborate further with respect to looking into the future, citing the numbers you cited and the fact that your competitors obviously have a significantly more competitive edge than you have, in view of your financial situation. The following question must be asked, even with this legislation: In the long term, will you be able to stay in business?

**Mr. Franczak:** I will address that. At first I would like to come back to some earlier comments and questions about the nature of the challenge we have.

It is important to note that up until about 2008, Canadian Pacific’s funding of the pension plan was actually in a slight surplus situation. The structural or design issues we have with our plan, those decisions with respect to caps and escalation clauses, date back decades. That is what Mr. Edwards was referring to earlier.

The issues we have come upon are a result of the escalators and the caps that were put in place decades ago. They are also a result of the impact of the low long bond rates, the low equity returns we have been able to realize for the pension plan.

It is also important to note that, notwithstanding that, Canadian Pacific’s equity returns are in the top 10 percentile of all equity returns for plans of this nature. This was not something we had planned for or something that was consciously done. As Mr. Edwards noted, this is an issue many defined benefit plan sponsors are faced with right now.

With respect to the kinds of numbers in the future that we will be required to fund, they are in the hundreds of millions of dollars. This is money that should be going into reinvesting in our infrastructure, long sidings for enabling growth and driving more efficiencies. This is about ensuring that our franchise remains a competitive and viable transportation system as part of the overall Canadian transportation network. We are a vital link in terms of the Asia Pacific Gateway. If we are unable to compete efficiently and for capital in the markets because of debt ratings and the cost of capital, which is rising for us because we are servicing this level of pension, over time it will become impossible for us to compete, to remain efficient, to grow and to remain an integral part of our transportation network.

**Senator Zimmer:** Thank you, gentlemen, for your presentation. I want to follow up on the questions raised by Senator Campbell and Senator Munson, specifically on the pensions. Is this horse out of the barn, or is it out of the corral already and you can never lasso it back in? Do you have a plan for the future where you can bring this back into reality, and is your solution in negotiation? If it is, they will not give up that territory.

Do you have a plan in the near future to bring it back to reality, or is it gone forever?

**Mr. Edwards:** Thank you for that excellent question. We have a multi-part plan. An investment strategy is part of it. We have the payment of the insolvency, which is part of it, and we have a negotiation strategy. All three of these are important.



If you look at our negotiation strategy, there has been movement. With all due respect, the teamsters have said to us that they recognize the problem. They offered a new introductory rate and some other things. We went back and forth, and we were still talking about the issues when the strike occurred.

I do not think this issue is done or that the game is over. I think it is important to deal with because it is important for the future of CP.

**Mr. Franczak:** As I noted, in 2008, as we started moving into the recession and this problem became very apparent to us, changes were initiated some years ago with respect to management's defined benefit plan. All new management employees are now in a defined contribution plan that has resulted in about \$140 million of positive impact in terms of pension liability on a forward basis. We have taken that action, as well as a number of others, including payments into the plan, to ensure we are dealing with the deficits that we are facing.

**Senator Zimmer:** Thank you very much and good luck.

**The Chair:** Honourable senators, I have no further names on my list. Are there any other honourable senators wishing to pose questions to these two witnesses at this time?

[Translation]

**Senator Dagenais:** My question is for the Vice-President of Human Resources. You talked about your pension plan and said that it is very expensive because it is a defined benefit plan.

I imagine that, like many employers, you conduct actuarial assessments every two or three years, and that the actuaries recommended maintaining or perhaps increasing employee contribution rates to make your pension plan sustainable. I do not understand how you can say that you will be forced to invest maximum dollars in the pension plan because of the way it was managed.

Is there a banker's clause requiring you to cover the costs if there is a shortfall?

[English]

**Mr. Edwards:** Yes, we do. The company bears the responsibility in a defined benefit pension plan to cover any shortfalls. That is why we have had \$1.9 billion in insolvency payments. It has grown to such an extent that the value of our total pension obligations is around \$10 billion, which, depending on how you calculate it, is about 80 to 83 per cent value of the entire company.

**The Chair:** There being no further questions, it remains for me to say to the two witnesses that, on behalf of all senators, we thank you very much for joining us today to assist us with our work on this bill.

[ Mr. Edwards ]

• (1550)

[Translation]

**Senator Carignan:** I would now like to invite the representative for the Teamsters Canada Rail Conference, Mr. Phil Benson.

[English]

**The Chair:** We have before us, honourable senators, Phil Benson of the Teamsters Canada Rail Conference.

Welcome to the Senate, Mr. Benson. I invite you to make some opening remarks. After you have made your remarks, honourable senators may have some questions that they wish to pose to you.

You now have the floor. Please proceed.

**Phil Benson, Teamsters Canada Rail Conference:** Thank you very much, Mr. Chair, and thank you to the Senate for having us before you. Teamsters Canada Rail Conference Locomotive Engineers represents about 5,000 locomotive engineers and rail traffic controllers at CP. However, overall, the Teamsters Canada Rail Conference and Teamsters represent about 65 per cent of rail labour. Teamsters Canada represents about 125,000 workers in Canada and, with the International Brotherhood of Teamsters, about 1.4 million in North America. We are the transportation union.

Mr. Doug Finnson, the vice-president of Teamsters Canada Rail Conference Locomotive Engineers, chief spokesperson and lead negotiator, cannot be here today. He is very busy in Calgary, working hard to get the start-up of the rail ongoing, so you are stuck with me. I am Phil Benson, the lobbyist for Teamsters Canada.

The question is, who picked that date? Teamsters Canada or the Teamsters wanted to negotiate. We understood that there was a problem — a food fight, if you like — with the shareholders. We wanted to continue negotiating. We would still be negotiating today.

After literally a few hours of discussion — do not be misled about days or how much you talk — the company decided to file for conciliation and start the clock ticking. In between, negotiations were sparse and far between. We have filed bad faith bargaining with CP at Canada Industrial Relations Board. Throughout, Canadian Pacific's viewpoint was "let the government do it for them." Why was there a strike? Faced with a company that will not bargain, that bargains in bad faith, and that wants the government to do it for them, and faced with a 95 per cent strike vote with the Teamsters, chances are you will have a strike.

The Teamsters volunteered to have our members run the commuter trains. CP said no; it was too complicated. Thankfully, working with Minister Raitt and with ourselves, CP decided to have a goodwill gesture. However, make no bones about it, they were planning to shut down commuter rail in Vancouver and in the minister's own riding, ensnaring GO trains in Toronto and Vancouver. We had no fight with the government or with commuters. Our fight was with CP Rail.

Make no mistake about it, there was an elephant in the room. That elephant was the previous back-to-work legislation that was heavy-handed and favoured companies. That is why CPR wanted the government to do it.

The issues were two: pensions and fatigue. On pensions, we have a profitable company with \$570 million in profit last year and I understand they had a bang-up first quarter. The pension plan was 100 per cent solvent a few years ago. Today it is 96 per cent solvent as of 2011. They had options. They took their options. We thank them for funding the plan. The problem, as with all pension plans, is long-term bonds with low interest.

However, in their message to shareholders, the company made it very clear: a 1 per cent increase in long bonds is worth \$600 million. We all expect interest rates to go up. They have a short- to medium-term problem that they have created. They talk about a cap. We know of no locomotive engineers that have ever hit the cap. That is first.

Second, I know you are not in the world of collective bargaining, but I will ask you a question: Do you really think the Teamsters would have two people doing similar work at the bottom line and not getting the same pay? You are business people, most of you. You know when you look at a contract one might charge you more for photocopying or one will charge you more for telephone calls. All you care about is the bottom line. Therefore, let us talk about the bottom line.

The CP workers pay twice as much for their benefits, for their pension. They have given up work rules worth many thousands of dollars to be used to pay for their pension.

On the CN pension, they have indexing. They have other aspects of that plan that are extremely valuable. We have, if you like, two contracts where both units have decided to take a different tact on how they will take their salary, but a locomotive engineer at CN makes the same money as a locomotive engineer at CP.

With respect to fatigue, this is an amazing issue. In Calgary, they had a five-year study about using time scheduling. It was very successful. It helps in fatigue. Can we move it out? No. Oh, the temerity. Could we have two 48-hour periods off over 30 days, so for those two 48 hours someone can sleep in their own bed? No.

I was before a committee of the Senate just a few months ago on the safer railway bill. Fatigue science is a huge issue. I met, I believe, Senator Eaton and Senator Mercer and we talked about it. It passed this house by a voice vote. It went over to the other place. It passed there by voice vote unanimously. How often does that happen?

We have the will of Parliament saying we want fatigue science on the rail. Never mind us, they kind of snub their nose at you. We hope the Minister of Transport will start the fatigue science studies immediately so it comes into effect.

As for the negotiation process — I was listening previously — first, when you walk in and say “no” immediately, when you say “no, no, no” and “bad faith,” it is pretty tough to get a deal.

What I will say about this bill, I will start by making this comment: I am union born, union bred; when I die, I am a union man dead. Back-to-work law is not part of my genetic structure. It is exactly the same as how a blue Tory, a blue Conservative, feels about tax increases.

This bill is fair. It is a fair bill. It gives us an option or a chance to perhaps get a good deal. I firmly believe if that elephant — the previous back-to-work laws — had not been in the room, we would not be here. I really believe we would have had a deal. The pick of the arbitrator is key, and I hope whoever is picked will be fair and be able to deal with the serious issues.

Mr. Finnsen, our chief negotiator and vice-president, said that the minister has been professional and courteous throughout. The FRMS, Mr. Baron, who is the director, and the minister have worked hard to try to get us a collective agreement. I will tell you it takes two to tango and that dance card was never going to get filled.

On a personal note — and this is purely personal — the Conservative members’ respect for the Teamsters and our membership was noted and appreciated. Thank you.

• (1600)

With that, Mr. Chair, I would be glad to answer your questions.

[Translation]

**Senator Dagenais:** I worked with the Quebec provincial police association, which is a kind of union, for 27 years. I was a representative, director, vice-president and even president. I had to negotiate several collective agreements, including a particularly memorable one in 1984, when the provincial government asked us to enter arbitration. There was no special legislation; we simply accepted arbitration. We halted all pressure tactics and agreed to arbitration. The arbitrator sided with us, but the government did not agree with the arbitrator’s decision. That was when we discovered that we were the only workers in Canada who were not entitled to binding arbitration.

If I understand correctly, the special legislation will force you to sit down with an arbitrator whose decision will be binding.

For 30 years, we talked to lawyers and we would have appreciated having the option, when we could not agree, to enter into binding arbitration. We did not always have that option.

Given the failure of the negotiations, do you not think that it would be an excellent compromise to enter into binding arbitration? It could turn out in your favour or not, but I think it is an excellent opportunity and an acceptable compromise.

[English]

**Mr. Benson:** Thank you for the question. Our preference is always to negotiate a collective agreement directly with our employer. At the end of the day, this is the process the government will give us. It is as fair a process as we will see, and we can only determine what the outcome will be after the arbitration is held to see what the results are.



**Senator Seth:** Thank you Mr. Benson. You have given a lot of information and I appreciate it very much.

Canadian Pacific, as we know, is the lifeblood of many industries providing service to millions of sectors and companies. It is important for the government that CP Rail is functioning at full capacity for the Canadian economy.

Can you please outline some of the points touched on in negotiation that are keeping CP Rail executives from providing its service to Canadians? Please tell us: How much money does CP Rail want from Canadian taxpayers?

**Mr. Benson:** Thank you for that question. Unlike CP, we do not bargain in the press and we do not bargain in front of you. As to the issues of CP management, they had a food fight. I assume that those questions would be best directed at CP.

**Senator Seth:** Not you?

**Mr. Benson:** We represent the workers, and if I heard the question correctly, it was talking about management's running of the railway. I am not sure if I received the question correctly or understood it. Perhaps if you rephrase I would be able to answer.

**Senator Seth:** I just wonder what negotiations are going on that are keeping this backlog of not providing services to Canadians. What exactly is the situation that is not working out?

**Mr. Benson:** At this particular moment, with the shutdown of the railway, I expect there are no trains running. Mr. Finnson is very busy in Calgary working out the various protocols and agreements required to get the workers back to work as quickly as possible. Hopefully tomorrow the train service will start to run.

**Senator Seth:** It is really hurting the Canadian economy a lot by being busy.

**Mr. Benson:** I am sorry, if you are asking if the Canadian is economy hurting, I think if CP Rail had not had this notion the government would do it for them — and if they had bargained in good faith — we would not be here and the trains would be running, just like the commuter trains are running now.

**Senator Ringuette:** Welcome, Mr. Benson. This is the third time in the last 12 months that we have had to deal with emergency back-to-work legislation. We had Canada Post. We had the Air Canada one that restricted salary and provided pension cuts to employees. A few months later there were the subcontractors in Winnipeg and Montreal where the employees lost their jobs.

However, there was no emergency bill in this place from the Minister of Labour in order to provide certainty of employment and making sure that all these Canadian families have a decent income and can survive. That was not a concern.

**Mr. Benson,** my first question to you is this: In the last 25 years how many strikes — and for how long — were there at CP?

**Mr. Benson:** Going back 10 years, there was one strike for three weeks. That one was quite interesting because after Minister Blackburn at the time, a Conservative minister, intervened, it

took us a grand total of two days to get a settlement. Again we were facing a company that did not want to bargain. However, once they actually walked into the room after three weeks, it was two days. As a shareholder I would be very upset because they could have had that deal without a strike.

**Senator Ringuette:** Absolutely.

If I recollect, this strike started on May 23.

**Mr. Benson:** I believe so. I am very tired. I have been working a lot. I am not sure what day it is today.

**Senator Ringuette:** It is May 31.

**Mr. Benson:** The end of the month already.

**Senator Ringuette:** Mr. Benson, as one of the negotiators in this collective agreement for these unionized workers, how did you feel on May 20 — three days before the employees went on strike — when the Minister of Labour went out publicly to say that she would bring in a return-to-work bill if the employees went on strike?

**Mr. Benson:** Thank you for the question. First, I am not a negotiator. I am not on the negotiating team. As I said, I am the lobbyist. I think it is not unexpected; it never helps when governments tip their hand.

I really welcomed the comments of the minister earlier. I thought the government is sending a message here, and it is a welcome one to not come back. I think what was more upsetting was that on the entire pension issue, clearly — and the comments in the paper — CP links the pension to its operating ratio, which sets its profit margin, basically stating they want to take money out of the pension to increase profit.

I will tell you what is even more upsetting. It is true that new managers go into the DC plan, but there are 2,200 managers in the current plan. Now, I told you that our members do not hit the cap, but they sure do, and guess what? They pay less money in and get more money out. We asked the question, "Are they going to take a cut, too?" Oh, heck no, they are going to get an increase. Quite bluntly, if the pension plan is in that much trouble and they are bleeding, the managers do not want to share the pain? We have to draw the line somewhere, do we not, senator?

• (1610)

**Senator Ringuette:** Yes, I imagine. Certainly, the rush to bring these three bills before Parliament, from my perspective, created an issue for the ability of labour to sit down and have an honest and sincere dialogue with employers when the employers have had three extremely clear signals from the current Minister of Labour that the government will definitely side with big business. There is no chance whatsoever in the process to have both parties engage in constructive dialogue without interference from the federal government. It is strong and clear. Maybe this is not a question, but I certainly feel that the correct negotiation pattern and the right to negotiate honestly for the good of the country on a long-term basis have been waived by this government.

**Mr. Benson:** Thank you. The two elephants in the room — the previous back-to-work legislation — tainted this round of bargaining. It will taint the final result. If there is a glimmer of hope, reading into the minister's comments earlier, which I appreciated, the government is sending a message to the private sector, "Do not come here." We have another round of negotiations starting with CP soon, with many companies across the country. If the government is going to respond when something happens, then governments will do what governments do. If this is what companies have to look forward to, I doubt they will do it. To be quite blunt about it, I do not think CPR would have taken an 8- or 10-day strike for this. This would have been done without a strike. On the last day with Mr. Baron, our bargaining table wanted to continue to talk. They opened the door to have a net-ARB deal. It took the company one second: No. It is true that an hour later Mr. Finnsen did come back and say, "We said no, too." As we said, it takes two to tango, and that dance card was not going to be filled.

**Senator Ringuette:** Three days before the process even started, the minister had made a public statement, and the result is what we are looking at today.

**Mr. Benson:** I will be clear about that. At that point, we were well done bargaining and were in the room. To cut a deal in the last three days is a pretty tough thing. I think it would be better for the government not to telegraph it if they are planning to do it — just do it and not telegraph it.

**Senator Segal:** I want to ask our guest two brief questions. The first one is related to the fatigue issue with respect to your members as operators of CP units across the country, and the health and safety issues that emerge therefrom. Can you give the chamber your perspective on what, if those issues are not addressed to your satisfaction, the risk factor is with respect to derailments and other difficulties, plus your members in terms of their health and well-being, which has to be one of your primary concerns?

Second, you talk about the elephant in the room. As everyone knows, there was a bit of a corporate upheaval on the part of the other participant in the bargaining. Part of what led to that, I expect, was a desire on the part of institutional investors to have a board that would get higher margins out of the company, a more constructive cash flow and higher profits. The Teamsters is one of the most sophisticated labour organizations in the world. I am sure you have given some thought to what that means strategically, and you faced it in other companies with whom you have negotiated. Can you share with us what that might mean relative to the circumstance we now face?

Let me express my thanks for the suggestion that the Teamsters made to keep the commuter services operating across the country. That is the sort of thing that speaks constructively to how people who are in dispute understand that they are also citizens and have obligations to fellow citizens. Thank you for that.

**Mr. Benson:** I really appreciate that. To make it very clear, that is my message to my brothers and sisters out there who had to volunteer to cross a picket line to ensure that their fellow citizens

got to and from work. To cross a picket line as a trade unionist is something else. You have to be a trade unionist to understand; and my great thanks to them. I am very proud of them.

On the fatigue issue, I have been kind of the fatigue guy for the Teamsters. We have dealt with the trucking industry and signs of fatigue. I just finished a one-off for pilot fatigue in the air. The rail industry has a management plan for fatigue. When they were asked about it, they said it was in the filing cabinet. They said, "Well, we have one; you did not say we have to implement it." As you know, the Transport Committee here and in the other place clearly have heard in their hearings that it is absolutely abysmal. It does not meet any terms. In this particular contract, they were looking for remedial action. The long-term health and safety consequences on human beings — it is known that people who work these hours live longer and cost health care more money. The company is transferring to the taxpayers their desire to work people to death.

We know what fatigue does for accidents. In fact, I remember working with the negotiating team at CN. They were looking for fatigue issues. At the same time they were saying no to us, their chairman was admitting in front of the shareholders that about 70 per cent of accidents they had were related to fatigue. I will say that Mr. Hunter Harrison did sign off on fatigue issues on that contract.

As to the corporate upheaval, that is why we did not want to start the clock ticking. We understood that there was a corporate upheaval. I will say it again, "Who set that date?" We were shocked that the company set it basically within days of their corporate hearing. They must know that if Mr. Greene was sent out — What are they doing? Who is their CEO? Who is their management team?

As to the higher margins issue, we understand that. To be blunt about it, I have been told by guys, and even they complain about how management runs the company. Do you manage a company the way it is supposed to be run so that you earn your money by managing the company, or do you increase cash flow by stealing money from your pension? To me, you manage a company. I met Mr. Mongeau, the CEO, a short while ago. I saw him talking about how we were a railroad family and how his pension was protected. The caps and price may be different. CP made a choice about how they would fund it; and, God bless them, they probably made the wrong choice.

When you manage a company, you should manage it to make money from your operations, not by taking money from something that the workers have paid for out of their wages for 30 years at twice the rate of CN workers plus giving money back in operating rules so they could have even more money for their pension. After a couple of years of low interest rates — and in their shareholders agreement the interest goes up one or two points over the next couple of years — they will be awash with cash. I will tell you one of the ironies: Two of the largest shareholders are the Canada Pension Plan and the teachers' pension fund. Talk about robbing Peter to pay Paul. What can I say? I thank you for the questions. They are very important and I am glad you asked them.



• (1620)

**Senator Cowan:** I want to make sure I understand what you are telling us today. I believe a fair summary would be that you think the government, by telegraphing in advance to the union, and particularly to the company, that it was prepared to intervene, that that was the elephant in the room and that it was inappropriate. Therefore, you are critical of the government's pattern of involvement in perhaps prematurely bringing in back-to-work legislation. Without that, you might have been able to achieve an agreement through the ordinary processes of collective bargaining.

However, we are where we are, and we have a bill which you believe and we believe is better than the previous back-to-work bills brought in by the government. Are you saying to us today that you would like us to pass this bill? Are you supporting this bill today?

**Mr. Benson:** There is the simple fact that back-to-work legislation was created for railways. Make no bones about that.

**Senator Cowan:** I am sorry, I missed your answer.

**Mr. Benson:** I said that back-to-work legislation was created for railways. That is where they started.

**Senator Cowan:** The question, sir —

**Mr. Benson:** I will get to your answer.

The elephant in the room was the two previous heavy-handed, pro-company bills that I think gave CP a message that they could get it, too. That was the elephant in the room. I do not think any railway worker will not expect that sooner or later there is almost a definite chance they will be legislated back to work. We will always oppose it; we do not support it; it does not fit to our genetic structure.

**Senator Cowan:** Is your union opposed to this legislation? Is it asking us to vote against this legislation?

**Mr. Benson:** We would hope that you would. I am saying to you that I hope you would. I think the bill will pass, but, as a labour organization, we do not support back-to-work legislation.

**Senator Cowan:** So you are opposed to this legislation, even though it is less draconian than the previous legislation.

**Mr. Benson:** We are opposed in principle to back-to-work legislation. If the government is going to bring back-to-work legislation, Minister Raitt has brought forward fair legislation.

**Senator Lang:** Mr. Chairman, Senator Cowan presented one of the questions I was going to put to the witness. It leaves a couple of options in the house from the point of view of the bill itself.

However, I want to go back to the witness's observations about the financial viability of the company and looking ahead in the long term. This is on behalf of the employees you represent, as well as the general public and the economy. They talk about the

viability of the company. You have prefaced your remarks a number of times by saying that if the interest rates go up, then they will be awash with cash. If they do not go up and we assume the status quo is maintained, then what is the viability of the company in the long term?

With the consequence of this legislation, do you feel that you can come to a satisfactory agreement with the company, a long-term agreement that keeps the company viable and your employees well paid?

**Mr. Benson:** Thank you for the questions. On the first one, I do not have any private or insider information. I can only rely upon the SEC filings in the United States and the annual reports to shareholders. I have read them carefully, upside down and sideways, and, unless I am missing something, I have not seen any notice in there that says, "Caution to shareholders, we might be going belly up." In fact, Mr. Greene, through his tour around Canada trying to keep his job, put out press release after press release talking about how wonderfully he was doing.

What is done in collective bargaining, what I see in collective bargaining and what I would have to rely upon in the real world is all that I know. Yes, they have a problem. As I said, it was 100 per cent. All I can rely upon is the report they gave to their pensioners, the annual report to the people who earned a pension in 2011, and it stated it was 96 per cent solvent. I cannot come here and say that I have all this other information. I do not know. The Teamsters Union is a mature union. We will look at their problems and their issues and try to deal with them.

From my viewpoint, the big problem is that the previous legislation, because it was an elephant in the room, tainted the round of bargaining. We will have a fair process out of it, but it will still taint the process. Really, that is all I can say about it.

I sincerely hope that there will be a good deal. CP Rail has been around since Canada has been around. I fully expect it to be around long after I am dead.

**Senator Lang:** You talked about the negotiations being tainted, yet a little earlier you stated that the back-to-work legislation that has been before this house has always been there primarily for the railroads. You know that when you go on strike, eventually you will have to be legislated back to work; is that correct? Is that what you said?

**Mr. Benson:** It is what has happened. However, in the CP Rail, Teamsters Canada Rail Conference — Maintenance of Way, that did not happen. There was a three-week strike. The minister intervened to get us back to the table. There was no back-to-work legislation. It is the timing of the legislation.

I say the process is tainted, senator, because whenever you have fear that a government may impose back-to-work legislation on Air Canada or the postal workers, it taints what happens in the room. Now, with this legislation going forward, I think the government, hopefully, from the minister, is sending a signal out to both business and unions, "Go negotiate and if you come here you might get treated fairly, but please do it." This legislation will not resolve what was in the room from the previous two.

Is that satisfactory? In other words, if you negotiate with a gun at your head you negotiate differently than you would if you do not have it and, negotiating with the thought you have a gun at your head, you will negotiate in a different way than you would without that gun being there. The previous legislation in fact tilted the negotiations in the room — what little there was. Trust me.

**Senator Lang:** May I follow up in respect of this?

**The Chair:** Senator Lang, I have two more senators and we have only eight minutes to go. Very briefly please.

**Senator Lang:** In order to get back to the negotiating table, in view of the events, would you not agree this legislation is necessary to be passed in order to move on?

**Mr. Benson:** As I said before, on principle as a trade unionist, I always oppose back-to-work legislation. Governments do what governments must do and, at the end of the day, the Senate will decide what it must do.

**The Chair:** Thank you, Senator Lang. I have Senator Poy, then Senator Duffy, and about seven minutes to go.

**Senator Poy:** One of my questions has already been asked by Senator Cowan. I have another question on the pension fund. From what I have heard, it seems that the pension fund had either been incorrectly managed or mismanaged. They used to have a surplus a few years ago and, because of the fall in interest rates, now it is in deficit; is that correct?

**Mr. Benson:** Thank you for the question. I would not say it was mismanaged or improperly dealt with. That is not the case. They made choices to deal with the funding and they have the result they have. Every company we have that has a pension plan has a problem because of the low interest rates. The policy to have a low interest rate has an unintended consequence of seriously damaging pensions. CP is not unique. It will affect every company.

I will say that CN seems to be managing its pension funds better, as are many of the other contractors and companies we deal with, because they perhaps chose to deal with it in a different way. Is it mismanaged? No.

**Senator Poy:** You mentioned that we know, because of the majority on the other side, this bill will pass no matter how the Liberal side votes. However, that will not solve the financial management of the company, right? Interest rates are still low, so even though everyone will be told to go back to work with the legislation, what will change?

• (1630)

**Mr. Benson:** I think what will change is that we might have a fair shot at getting a fair agreement. As for managing a company, it is not our job, though we will try our best to make constructive suggestions. At the end of the day, it is the manager's job to manage, and if managers do not manage well, then they lose their jobs just like we lose our jobs if we do not work correctly.

**Senator Poy:** I understand that, yes. However, do you think there needs to be a change in the management?

**Mr. Benson:** We do not welcome managers getting involved in union politics, and we do not get involved in management politics.

**Senator Poy:** Thank you.

**Senator Duffy:** I want to thank the witness for coming today and providing his insights. Mr. Benson, you are well known. You are a sophisticated, professional lobbyist in this town, and you have lots of contacts in the media. Our colleagues on the other side are anxious to use you to try to bludgeon the government.

Could you explain to us why your spinners were telling the parliamentary press gallery that you desperately need this legislation to avoid a catastrophe at CP Rail in terms of your labour relations and that this is the best thing that the Teamsters could hope for?

**Mr. Benson:** Thank you, Senator Duffy. I think that we go back at least 20 or 25 years, and I have always welcomed our chats both here and in your other world. I enjoy both, by the way.

As to our spinners, I work hand in hand with our communications director, Mr. Lacroix. I do not remember him actually making any comments like that in the press. What I will say is that this bill was, of all outcomes, much better than we thought. It was fair. It does not take away our dislike, as I said, from a generic structure, on the back-to-work side of the legislation. We will agree to disagree to agree to disagree.

**Senator Duffy:** Thank you.

**Senator Finley:** Thank you. My question is fairly short and may give rise to a shorter supplementary question.

In the May 5, 2012, vote, the union membership voted, as I understand it, 95 per cent in favour of strike action. What was the turnout?

**Mr. Benson:** I do not have that information, but I could probably get it for you.

**Senator Finley:** Do unions generally indicate turnout, or do they generally only give the percentage of the vote? Are these numbers freely and readily available?

**Mr. Benson:** They would be available to the bargaining unit. Whether the union decides to give out both or not is a matter of practice. It is the same as in a ratification vote; sometimes they are given out and sometimes not. There is not much to be read into it.

**Senator Finley:** This 95 per cent who voted in favour may have been from only a 20 per cent turnout or from a 95 or 100 per cent turnout?

**Mr. Benson:** If you are a trade union, and the people wish to go on strike, you would not be doing it if the numbers who wished it were not extremely large.



**Senator Finley:** That is great in theory, but I would like to see the numbers. After all, labour unions have a certain status in Canada. I think there is a responsibility towards the taxpayer to give them the whole story. Certainly in other forms of elections — municipal, provincial and federal — we are obliged to tell the public what the turnout is to see the interest level.

I would be interested in hearing from you what the turnout, in actual fact, was.

**Mr. Benson:** Thank you.

**The Chair:** Honourable senators, we have reached the point in the panel where, on behalf of all honourable senators, I would like to say to Mr. Benson thank you very much for appearing before us in the Committee of the Whole this afternoon and thank you for joining us to assist us in our work on this bill.

**Mr. Benson:** Thank you for your kindness and courtesy. It is always a pleasure to come before you.

[Translation]

**Senator Carignan:** Honourable senators, I would now like to invite the final group of witnesses, Professor George Smith from Queen's University and Professor Ian Lee from Carleton University.

[English]

**The Chair:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Chair:** Honourable senators, we now have before us two professors, George Smith, Adjunct Professor and Fellow from Queen's University; and Ian Lee, Assistant Professor, Strategic Management and International Business, Sprott School of Business, Carleton University. On behalf of honourable senators, I wish to extend to both of you a cordial welcome to our Committee of the Whole and our study of Bill C-39. I invite you to make your opening remarks, following which honourable senators may have some questions that they wish to pose to you.

I know that this is not new to Mr. Lee because he appeared before the Senate Banking Committee as recently as yesterday. Welcome again, Mr. Lee. I do not know which of you will be going first, but you may make that decision between yourselves.

**George Smith, Adjunct Professor and Fellow, Queen's University, as an individual:** It will be me, the rookie.

My name is George Smith. As you know, I am a Fellow at the School of Policy Studies at Queen's University and Adjunct Professor in the School of Business and the School of Industrial Relations. Thank you for the invitation here, honourable senators. I appreciate the opportunity to add to the public discourse around this situation and the circumstances that you are addressing today.

I want to briefly give you some background, talk about the historical context and the current context and suggest some implications for what we are looking at, but I will be brief.

• (1640)

I can safely say that I have studied, taught and practised industrial relations for virtually my entire adult life. In spite of its flaws, I am a strong proponent of free collective bargaining, which includes the right to strike or lockout as a dispute resolution mechanism.

I have seen the good, the bad and the ugly and, as you have sensed from today's conversations with the union and management, it is a tough business. Collective bargaining is tough, but it works, if it is allowed to. It can be messy, it can be inconvenient, and it can be costly, but one way that I would put it is that it is the worst form of dispute resolution except when you consider the alternatives.

In terms of historical context, I have grown-up and practised in a world of industrial relations where the labour codes, both federal and provincial, allowed the right to strike or lockout to employees, unions and companies. The government role has historically been through the mediation conciliation process. In game terms, they are the "referee" of the game.

There has historically been virtually no government intervention in provincial jurisdictions. Intervention in the federal jurisdiction, while it is more common, has been relatively rare, and it is only in cases where there has been demonstrated significant economic harm.

I do believe in the right and the power of the government to intervene, but it is the timing and the form of that intervention that I believe needs debate. If I look at the system that I have grown-up with, it is a system that has short-term pain and long-term gain. What I am concerned about is that, in the last year, we have seen a situation where we may be having short-term gain and long-term pain.

Since virtually one year ago, there has been intervention in every single dispute at the federal level. It has been pre-emptive intervention, which is unprecedented, and it has compromised the collective bargaining process, as you heard from the Teamster representative recently.

The interest arbitration processes that were given to Canada Post and Air Canada have not resulted in any agreements or finality, and I believe that there is not only long-term harm to the economy as a result of that, but also long-term harm to the relationships that are involved in those complex and large workplaces. In fact, the government has become a player in the negotiations, rather than the referee, and unfortunately appears to be making up the rules while the game is in progress.

There are some significant long-term implications to this, in my mind. Again, I am here to encourage what I believe is the necessary public policy debate. If the government is going to continue to intervene, there has to be a debate as to when and how and the necessary change to the legislation which currently allows for strikes and lockouts. We must define the public interest.

In the case of Air Canada and the intervention, there has never been a historical intervention in the airline industry or in that company by the government, and we now have them intervening in four disputes in the last year. If the right to strike and lockout is going to be removed, then the inefficiency of interest arbitration must be addressed or federal industries will become uncompetitive and labour relations relationships will be harmed irreparably.

In the late 1990s, there was a commission regarding public policy as it related to industrial relations. It was chaired by Andrew Sims, and the product of that was a report entitled "Seeking a Balance," which I have here and to which I want to refer. This was a tri-party group, chaired by an eminent labour lawyer. It involved representatives from trade unions in the federal sector, as well as the majority of employers in the federal sector, as well as representatives from government.

In chapter 10 of that report, when they are dealing with the issues of back-to-work legislation and alternatives to collective bargaining, the report stated "In our view, neither conventional arbitration nor FOS," final offer selection, "offers an attractive substitute for free collective bargaining." Free collective bargaining remains the best solution in the long run in a free enterprise economy where parties need to negotiate changes.

To summarize, I am raising a concern not that the government does not have the right to intervene if and when necessary, but that we have a situation now where that has not been clearly defined. It certainly would appear to be in contravention of the Labour Code as it currently exists. I believe there needs to be much more public policy debate before we buy into the notion that strikes and lockouts are no longer to be allowed in the federal labour jurisdiction.

**Ian Lee, Assistant Professor, Strategic Management and International Business, Sprott School of Business, Carleton University, as an individual:** Good afternoon, honourable senators. It is an honour and a pleasure to be in this august building, I assure you. I have lived in Ottawa all my life, and it is still a thrill to visit Parliament Hill and this magnificent institution.

I am very pleased to be here to discuss Bill C-39, as my interest in this is longstanding. Unlike Professor Smith, I am not a labour relations scholar; I am a policy analyst. I completed my 850-page thesis on the origins, growth and decline of Canada Post from 1765 to 1981. I read all the Hansard debates of the Province of Upper and Lower Canada, the Province of Canada, and then Canada from 1867 to 1981 on the post office only.

I am telling you this because it became very clear that throughout our entire history, transportation and communications have been central to the parliamentarians of our country, from the very beginning. Indeed, the construction of the CPR followed the first great act of nation-building, which I argued in my thesis was the establishment of the Canadian post office in colonial Canada. Restated, active parliamentary involvement in transportation and communications is part of our Canadian history and heritage.

Last year, when the government passed back-to-work legislation for workers of Canada Post and Air Canada, many pundits said it was unprecedented, as I believe Professor Smith

just said. I knew, from my days working down the street in the Bank of Montreal at 144 Wellington, which is now part of the parliamentary precinct, that this was untrue. I knew that postal workers had been legislated back to work in the 1970s and 1980s. Then it became imperative for me to empirically research and identify every back-to-work bill passed by every Canadian Parliament in modern times to separate historical, empirical reality from ungrounded, untethered punditry. I did. The results were published in my article in March of this year by the *Journal of Parliamentary and Political Law*, which I believe is published on the Hill. The article was called "Striking Out: The New Normal in Canadian Labour Relations?"

The data were illuminating. The research revealed that 35 times, from 1950 until 2011, the Parliament of Canada has legislated striking workers back to work — 35 times. Let us give the score: St. Laurent, 1; Diefenbaker 2; Pearson 3; Trudeau 11; Mulroney 9; Chrétien, 5; Harper, 5. That is the score of back-to-work bills legislated.

Let us turn those scores into a hockey game score, the Liberal team versus the Conservative team: Liberal governments have legislated back-to-work striking workers, 20 times; Conservative governments, 15 times.

This evidence empirically repudiates the claim that the government's approach to back-to-work legislation is unprecedented. In fact, the bills passed by the current government represent the thirty-second, thirty-third, thirty-fourth and thirty-fifth times that back-to-work laws have been passed by Parliament since 1950.

However, an examination of the striking workers, firms, industries and sectors legislated back to work is even more revealing. Of the 35 work stoppages legislated back to work by the Canadian Parliament, 32 were employed in the following industries: ports, 11; railroads, 10; post office 5, grain handlers, 4; airlines and airports, 2, while the three anomalies or outliers were Government of Canada workers legislated back to work by the Parliament of Canada.

• (1650)

What do these 32 work stoppages from 1950 to 2011 have in common? Each striking union represented workers and industries that are part of the transportation and communications sector. This is extraordinarily revealing. Canadian economists, historians and policy scholars, from the late Harold Innis at the University of Toronto, to Marshall McLuhan, to popularizers such as Pierre Berton, have long understood the absolute centrality of transportation and communications for the relatively small numbers of Canadians spread east to west across 9,300 kilometres, and 4,600 kilometres north to south, in the vast, far-flung, inhospitable and often unyielding land of Canada.

Prime Minister Mackenzie King once said that Europe had too much history and not enough geography. The inverse is equally true for Canada. We have too much geography and possibly not enough history.

This research reveals what contemporary pundits and some labour relations scholars have perhaps failed to understand but that past parliamentarians do understand, that Canada



straddles one quarter of the land mass of the northern hemisphere of the planet Earth and that individual Canadians, firms, governments, universities, non-profits, students, elders — in fact, all Canadians — are utterly dependent on transportation and communications in this incomprehensively vast land.

Labour strikes in transportation and communications impose what we now know, courtesy of the opposition leader in the House of Commons who brought it to the discourse, are called “externalities” imposed by a tiny number of people — 5,000, 10,000, 15,000 on strike — on 34 million Canadians, which is grotesquely unfair, as they are not parties to the strike.

Looking back on 60 years, it is now clear that every Parliament, every government and many parliamentarians, under the leadership of St. Laurent, Diefenbaker, Pearson, Trudeau, Mulroney, Chrétien and now Harper, understood deeply what critics do not understand.

Moreover, Canada has an abysmal record, the worst in the OECD, with the highest number of days lost due to strikes, and this is disproportionately in the transportation and communications sectors.

Thus, those MPs, pundits and scholars who argued that back-to-work legislation is an assault on labour relations fail to understand that back-to-work legislation has a long parliamentary history, supported by every government since 1950, but it affects only workers and unions in transportation and communications due to the existential importance of these two sectors to the lives of all Canadians.

In summary, the issue, stated as clearly as possible, which must be addressed by the legislators, the ultimate policy-makers in our country, is whether the greater public good of 34 million Canadians will prevail over the self-interest of a few thousand disgruntled Canadians.

**The Chair:** Thank you both for that presentation. Honourable Senator Seth will now pose questions.

**Senator Seth:** Thank you very much, professor. That was a very appealing introduction.

Professor Smith, you are an expert in industrial relations and human resources management. You were Vice-President of Industrial Relations with the CP Rail system and Senior Director of Employee Relations at Air Canada, before and after its privatization, which gives you a lot of experience dealing with delicate employment negotiations.

Please tell us how, in your opinion, Bill C-39 will be the best option to resolve the current situation and to stop the continued negative effect to the economy.

**Mr. Smith:** Thank you for that question. The difficulty we find ourselves in now is that, in a certain sense, the cat is out of the bag. As the Teamsters representative correctly stated, the moment there is a signal that the government is going to intervene in collective bargaining, the attention to getting a deal and the attention to the collective bargaining shifts to what the back-to-work legislation will be and what form the arbitration or dispute resolution will take.

I think the inevitability of the passage of this bill is a foregone conclusion. Having said that, were I able to speak to Minister Raitt or other representatives of the government, I would simply suggest that letting the process work, letting free collective bargaining work, letting a strike happen for a period of time, with the requisite showdown that is part of that, is a necessary part of the process.

I do not disagree with Professor Lee at all about the fact that Parliament has historically intervened; it is a question of when and how. The unprecedented nature of this current situation is that there has been pre-emptive intervention without the necessary change in law. If that is the system and the policy we are going to have, then great; change the legislation. However, we have not had that public debate, and pre-emptive intervention compromises free collective bargaining.

**Senator Seth:** I think we should still pay attention to the Canadian economy, which is of primary importance, and also to the convenience of the public. The damage is happening, and we have to stop that.

**Mr. Smith:** The one small problem with that is that we do not know. There is a cost to this strike, and there is probably good reason for government intervention. The problem is that because the dispute resolution process is now going to be interest arbitration, which is an inefficient market tool, we do not know what the settlement was going to be. We do not know the cost to the company. We do not know the long-term competitive cost to CP and perhaps to the rail industry through extension of those agreements, whereas with free collective bargaining, in spite of the fact that it might take a strike or a lockout, there is finality. It is an efficient market tool, despite the short-term costs.

**Senator Seth:** Yes, but I think that the strike should be over. We can still continue our negotiations and not hurt the economy.

**The Chair:** Professor Lee, do you want to add anything to that?

**Mr. Lee:** Yes, I do. I have great respect for Professor Smith, but I simply reject his fundamental assumption or postulate. We have in our country certain classifications and occupations that are not allowed to strike. Doctors and emergency personnel cannot strike, and we just take that for granted. We know that is true. We know that is to be the case. I think that transportation and communications should be treated just like emergency services personnel. We are so dependent on it.

**Senator Seth:** Thank you.

**Mr. Smith:** Simply put, that is not the law.

**Senator Finley:** My question is perhaps a little esoteric in the current context. They usually are.

Are either of you eminent students of industrial relations and industrial relations history aware of any academic or special-interest reports that probe the question of how many people who are currently unionized would not choose to do so if they had a choice, in other words, not a closed shop? If not, do either of you gentlemen have any comment on the fact that Canada, federally, is not a right-to-work country and on what impacts that may be having on the economy?

**Mr. Lee:** First, I am a numbers guy. I like to look at statistics and that sort of thing of real people and organizations.

Unionization has been declining in Canada for 50 years in the private sector. It is down to 16 per cent. The parallel trend has been that unionization has been skyrocketing in the broader public sector, including universities, colleges, schools and governments. Increasingly, unionization is becoming a public sector phenomenon. It is down to 16 per cent in Canada and 7 per cent in the United States. At the rate it is going, in another 10, 15 or 20 years, unions will vanish or become almost invisible. The market is speaking. People are choosing not to join unions, through market forces in the private sector. That would be my response to your point.

• (1700)

**Senator Finley:** Would the other gentleman respond?

**Mr. Smith:** I think your question was around research. I am aware of no such research. There are laws, as many of you know, in the United States, where I think 22 states have right-to-work laws that allow employees, even in a unionized environment, not to join a union. Our democracy has not chosen that particular approach to trade unionization and labour relations, and our law is very clear in that regard. Once you are in a union, unless you decertify, you are bound by that relationship.

**Senator Finley:** Do you think there would be any merit in looking at right-to-work legislation from a federal level in Canada?

**Mr. Lee:** You have asked a very good and very controversial question. I will answer it indirectly.

I have done much research on which provinces and states are doing well and which are not. In the northeastern United States, the so-called Rust Belt states of Michigan, Ohio and Pennsylvania are doing very poorly, and they have high levels of unionization. There are actual empirical studies on this. I am not just randomly quoting statistics.

In the southern United States, and I am referring to Tennessee, Georgia and North and South Carolina, auto plants — North American, European and Japanese — have been locating there, and they are booming. They are generating all kinds of economic growth, so there have been papers showing that there is a correlation in those traditionally heavily unionized states. I am including Ontario in that, where they are doing much less well in the current competitive sweepstakes of the modern economy than those states that have much lower levels of unionization, in part, because they have right-to-work laws.

**The Chair:** That concludes the list of senators who wish to pose questions to these two witnesses. If there are no others, it behooves me, on behalf of honourable senators, to say thank you to Professor Smith and Professor Lee for coming here today and for joining us to assist us in our work on this bill. Thank you both very much.

Honourable senators, that concludes the witnesses that we were authorized to hear on the four panels this afternoon.

Honourable senators, is it agreed that we move to clause-by-clause consideration of Bill C-39, An Act to provide for the continuation and resumption of rail service operations?

**Hon. Senators:** Agreed.

**The Chair:** Carried.

Shall the title stand postponed?

**Hon. Senators:** Agreed.

**The Chair:** Carried.

Shall clause 1, the short title, stand postponed?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 2 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 3 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 4 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 5 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 6 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 7 carry?



**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 8 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 9 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 10 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 11 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 12 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 13 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 14 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 15 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 16 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 17 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 18 carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall clause 1, the short title, carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall the title carry?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

Shall the bill carry?

**Hon. Senators:** Agreed.

**The Chair:** Carried.

Shall I report the bill without amendment?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Chair:** Carried, on division.

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**The Hon. the Speaker:** Honourable senators, the sitting of the Senate is resumed.

#### REPORT OF COMMITTEE OF THE WHOLE

**Hon. Donald H. Oliver:** Honourable senators, the Committee of the Whole to which was referred Bill C-39, An Act to provide for the continuation and resumption of rail service operations, has examined the said bill and directed me to report the same to the Senate without amendment, on division.

**The Hon. the Speaker:** Honourable senators, when shall the bill be read the third time?

**Some Hon. Senators:** Now.

#### THIRD READING

**Hon. Pamela Wallin:** With leave of the Senate and notwithstanding rule 58(1)(b), I move that the bill be read the third time now.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It is moved by the Honourable Senator Wallin, seconded by the Honourable Senator Raine, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**Hon. James S. Cowan (Leader of the Opposition):** Your Honour, I believe Senator Wallin had a few words to say, and then I had intended to say a few words.

**The Hon. the Speaker:** There is debate on third reading. Thank you, honourable senators.

**Senator Wallin:** Honourable senators, I have a very few words.

What we have heard today was truly worth listening to. We heard that the company wants this bill and that the union agrees it is the best way to get to the table. The experts believe we are within our rights and that the precedent of legislating when the greater public interest was in need was well established and established by the party opposite.

At a cost of \$75 million a day, with millions of jobs at risk, it is both just and necessary. Senator Cowan said yesterday that he would wait to hear these views before declaring he would vote against the bill. I wish he had because we have heard some very interesting things, but this kind of useful and insightful exchange has helped us decide how to do the right thing.

**Senator Cowan:** Honourable senators, today the Senate did what it is set up to do. We all should be proud of what went on today and to contrast that with what went on in the House of

Commons. There was no opportunity in the House of Commons for parties to be heard. Here, we heard from the minister and her officials; we heard from the employer, Canadian Pacific; we heard from the Teamsters Union; and, in a departure from our usual practice, at least since I have been here, we brought in a couple of experts in the field of labour relations. They spoke to us about this particular piece of legislation and their different views about the impact that it would have on labour relations in this country. I think we can take some credit and should take some pride in our efforts today.

There has been a good deal said about delay and unnecessary delay. I would point out to honourable senators that this bill spent two days in the House of Commons and no one was given an opportunity to be heard. There were many speeches by members of the House of Commons, but no opportunity to hear what we heard today.

I agree with Senator Wallin, although I perhaps did not hear exactly what she heard from the witnesses. I think that we all gained a great deal from having heard what they had to say and having had an opportunity to ask questions.

This bill was before us. Honourable senators remember it arrived here yesterday afternoon, and we have dealt with it in 28 hours. There is no reason the Senate should feel that it should accept any criticism for having unduly delayed these proceedings. As I say, we did what we were supposed to do and did what we are here to do, and I think we did it well.

• (1710)

As I said in my speech earlier today, this bill is much improved from the previous attempts at back-to-work legislation brought in by this government. I referenced two particular instances, which are two lessons that the government has learned. As our friend from the Teamsters Union said, as far as back-to-work legislation goes, this is about as good as it gets — although his DNA does not permit him to support back-to-work legislation in any form, and I guess we have to understand that.

Our problem, on this side, is not with the substance of this bill; our problem is with the government and the way the government has once again precipitously and prematurely intervened in a dispute between a private company and its employees. Honourable senators, it is a pattern — not a single instance but a pattern — as was pointed out in the column by Mr. Ivison to which I referred earlier. It is this pattern of unnecessary and premature interference that has tainted the process of collective bargaining, as I think the witnesses agreed — or at least the Teamsters official and at least one of the professors agreed. As people have said, it is this telegraphing of the government's intention in advance of there being any real economic damage. That is the elephant in the room, and that is what has tainted the process.

The government indicated in advance, quietly and off the record in some cases, its intention to intervene and bring in back-to-work legislation. The Teamsters official said it was better legislation than we might have anticipated. However, as Professor Smith said, once that signal was given, the cat was out of the bag. It was that pre-emptive intervention that compromised free collective bargaining.



For those reasons and not because of the particular provisions of this bill — but because it is a further example of an unfortunate pattern that this government is following — we on this side will not support this legislation.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** All those in favour of the motion please say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed please say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the yeas have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators. Do we have advice from the whips?

**Senator Marshall:** Let it be a 30-minute bell.

**The Hon. the Speaker:** The vote will take place at 5:35 p.m.

#### POINT OF ORDER—SPEAKER'S RULING RESERVED

**Hon. Pierrette Ringuette:** Honourable senators, I rise on a point of order. I would like to bring to the attention of honourable senators and Your Honour that for the second time in the last four months, the Senate proceeded to Committee of the Whole at the same time that the Standing Senate Committee on National Finance was holding hearings. Although the Finance Committee had the authority to meet, even though the Senate was sitting, the Finance Committee did not have the authority to meet while the Senate was in Committee of the Whole.

This is the second time in just a few months that this has happened. As a responsible senator, I think that my privilege has been tampered with and I would like to see this particular situation addressed. If it cannot be addressed by Your Honour, then please refer it to the Standing Committee on Rules, Procedures and the Rights of Parliament so that it can be ruled upon and properly addressed so that my privilege will not be tampered with in future deliberations.

**The Hon. the Speaker:** I thank the honourable senator for raising that matter. I will undertake to look into it and report to the chamber.

Honourable senators, there is agreement for a 30-minute bell. The vote will take place at 5:40 p.m.

Do I have permission to leave the chair?

**Hon. Senators:** Agreed.

• (1740)

Motion agreed to on the following division, and bill read third time and passed:

[ Senator Cowan ]

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Ataullahjan  
Boisvenu  
Buth  
Carignan  
Comeau  
Dagenais  
Di Nino  
Doyle  
Duffy  
Eaton  
Finley  
Fortin-Duplessis  
Frum  
Gerstein  
Greene  
Housakos  
Johnson  
Lang  
LeBreton  
MacDonald  
Maltais  
Manning  
Marshall

Martin  
Meredith  
Mockler  
Nancy Ruth  
Nolin  
Ogilvie  
Oliver  
Patterson  
Poirier  
Raine  
Rivard  
Runciman  
Segal  
Seidman  
Seth  
Stewart Olsen  
Stratton  
Tkachuk  
Unger  
Verner  
Wallace  
Wallin  
White—47

#### NAYS THE HONOURABLE SENATORS

Callbeck  
Campbell  
Chaput  
Cordy  
Cowan  
Dallaire  
Day  
De Bané  
Eggleton  
Fraser  
Furey  
Harb  
Hervieux-Payette  
Hubley

Mahovlich  
Mitchell  
Moore  
Munson  
Poy  
Ringuette  
Rivest  
Robichaud  
Sibbeston  
Smith (*Cobourg*)  
Tardif  
Watt  
Zimmer—27

#### ABSTENTIONS THE HONOURABLE SENATORS

Cools—1

#### FOOD AND DRUGS ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-313, An Act to amend the Food and Drugs Act (non-corrective contact lenses).

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

• (1750)

**CRIMINAL CODE  
CANADA EVIDENCE ACT  
SECURITY OF INFORMATION ACT**

**BILL TO AMEND—THIRD READING**

**Hon. Linda Frum** moved third reading of Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, as amended.

She said: Honourable senators, I speak to you today regarding Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act.

As a member of the Special Senate Committee on Anti-terrorism and as a sponsor of this bill, I would like to begin by thanking all of the witnesses for their thoughtful insight, and I would like to commend all honourable members of the committee for their thorough and investigative questions.

As noted at the first and second readings, this bill proposes to re-enact the provisions found in former Bill C-17 and focuses on the investigative hearing and the recognizance with conditions provisions that sunsetted in 2007. It also responds to recommendations of the parliamentary review of the Anti-terrorism Act, which took place between 2004 and 2007 and includes additional improvements to the Criminal Code, the Canada Evidence Act and the Security of Information Act.

Terrorism will unfortunately continue to be a threat for the foreseeable future. The government needs to provide law enforcement with the means to anticipate and respond effectively to terrorism. Bill S-7 is a strong step in this direction. It contains tools which we hope will never have to be used, but which will be on hand if necessary to adequately defend our nation's security.

There are five main tenets of Bill S-7.

First, the investigative hearing provision would allow the courts, on application from a peace officer, to compel someone with information about a past or future terrorism offence to appear for questioning. These hearings would be intended for gathering information on terrorism offences, not to charge or convict a witness with a terrorism offence.

Going hand in hand with this, the recognizance with conditions provisions would allow a peace officer, with permission from the courts, to compel someone to appear before a judge in order to prevent terrorist activity. The use of investigative hearings and

recognizance with conditions would be available strictly under defined conditions and subject to numerous procedural safeguards, including the requirement that it has the consent of the Attorney General.

During our hearings, Wesley Wark, visiting professor with the Graduate School of Public Affairs at the University of Ottawa stated:

I believe these are potentially important tools in counter-terrorism investigations, although likely to be rarely used. This is not least because they presume, at least in the case of a recognizance with conditions powers, a kind of ticking time bomb scenario in which CSIS and the RCMP have last minute, reliable intelligence about an imminent threat.

The investigative hearing and the recognizance with conditions provisions were part of the Criminal Code from late 2001 until they expired on March 1, 2007. This bill seeks to re-enact to ensure their still available if necessary.

Second, this bill proposes to create new substantive offences making it a criminal offence to leave or attempt to leave Canada to knowingly participate in, or contribute to, any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to carry out a terrorist activity, facilitate a terrorist activity, or commit an indictable offence for a terrorist group or a terrorist activity.

The proposed new offences would send a strong deterrent message, strengthen the hand of law enforcement to mitigate threats and increase penalties for this type of conduct.

Dr. Wark noted:

With regard to criminalizing activities relating to travel outside of Canada to participate in or facilitate a terrorist activity, this too I think is a useful provision and a useful legal power . . . It does relate to a known threat, including the knowledge that we have that Canadians of Somali descent, for example, have returned to take part in the activities of an Al Qaeda linked organization called al Shabaab. The legal requirements to bring charges in these circumstances will be high . . . However, I regard this legal provision as having a useful and necessary deterrent effect and also a public education benefit.

Terrorism is a unique and particularly devastating type of criminal offence and it needs to be combated pre-emptively due to the immeasurable damage caused by those whose intent it is to disrupt the fabric of the targeted societies and to instill fear therein.

In hearing testimony from those responsible for ensuring the security of Canada against terrorism threats at all parts of the process, it became clear that there was unanimous support to fight the unconventional threat posed by such radical groups and individuals. Representatives from the RCMP, CSIS and CBSA all vowed that additional tools would facilitate a better fight in this regard.



Assistant Commissioner Gilles Michaud, National Security Criminal Investigations of the Royal Canadian Mounted Police noted:

The RCMP supports Bill S-7 because it contains important tools which could enhance the RCMP's ability to prevent, detect, deny and respond to terrorist threats. With terrorism, even more so than with other forms of criminal activity, it is imperative that we prevent attacks before they occur wherever possible.

Mr. Richard McFadden, Director of CSIS, stated:

... as a member of the broader national security community we are certainly supportive of any additional tools that will help our partners to better confront terrorism once it has reached the threshold of criminality. Any legislative or other provision that contributes to an environment that would facilitate our work is welcome.

Some argue that the threat posed by terrorists is waning and that post-9/11 concerns are no longer prevalent in Canada. The expert testimony received suggested that there remain viable threats of concern.

Mr. Michaud stated:

We recognize that the greatest threat to Canada's national security is posed by the threat of criminal terrorist activity in Canada and abroad and we will do our utmost to prevent, detect, deny and respond to threats. . . .

He noted additionally that:

The radicalization phenomenon is now almost enshrined in some of our vulnerable communities. We are seeing more and more individuals travelling abroad . . . From our perspective, these are tools we can put in our toolbox so if we ever get to a point where it is the last resort, that we have used all the other tools in our toolbox and we are still faced with a situation where the Canadian public is at risk, then we have these to use.

Dr. Wark testified that:

... intelligence and law enforcement agencies will continue to rely on accumulated intelligence and evidence about terror plots, developed over time, some of which will come from foreign services, as was the case with Momin Khawaja. They will also continue to rely on the use of informants or undercover agents, as in the so-called Toronto 18 plot. The supposition that these powers will rarely be used is not an argument against having them. It is a kind of reassurance, I would say, a reassurance backed by what I regard as the reasonable, stipulated limitations on the use of these powers, as well as the reporting requirements that have now been attached in the revised legislation.

With regard to the need for new offences pertaining to leaving and attempting to leave Canada to participate in terrorist activities, Mr. Michaud stated:

We have seen cases where individuals who were radicalized in Canada travelled to foreign countries to undertake terrorist training and/or to participate in foreign conflicts.

Similarly, Mr. Fadden also stated:

CSIS is aware of at least 45 Canadians, possibly as many as 60, many of them in their early twenties, who have travelled or attempted to travel from Canada to Somalia, Afghanistan, Pakistan and Yemen to join al Qaeda affiliated organizations and engage in terrorism related activities. Clearly these individuals represent a threat both to the international community and to Canada, as some have or may eventually return to Canada after having acquired terrorism training or even having engaged directly in acts of terrorism.

Therefore, honourable senators, this bill is a necessary piece of legislation to provide tools to manage emerging threats to our national security. It balances these tools, however, with explicit, carefully crafted safeguards to ensure their lawfully implementation.

The recognizance with conditions provision allows a person to be detained for a maximum of 72 hours which, in critical situations, may be necessary to prevent a terrorist activity from being carried out. It will also allow a judge to place conditions on an individual upon the release of that person from custody. It is a combination of these features that could make the recognizance useful in specific situations. The ability to arrest and then place conditions on a person are only foreseen in those rare situations where police believe this would be necessary to prevent a terrorist activity from being carried out.

It is clear that this bill intends to achieve a mandate but refuses to do so at the cost of individual liberties. In hearing various questions during committee, several concerns or criticisms from honourable members were noted. I would like to touch on a few specifically.

It has been stated that Bill S-7 will grant too much power to authorities through the provisions of recognizance and investigative hearings.

First, I would reiterate the safeguards such as the need for the consent of the AG, the continuing right to counsel, the right against self-incrimination and the mandate of reasonable attempts before resort to the provisions.

• (1800)

Second, I would like to assert that the idea that this will result in an abuse of powers can be refuted by the notion that the bill was in existence and these powers were never used, let alone abused during their existence in law from January 20, 2007.

Concerns were additionally addressed regarding the treatment of underage would-be terrorists by the legislation. Specifically, there were concerns that the provisions making it a criminal offence to attempt to leave the country to participate or attempt to participate in a terrorist offence would deny rights to young offenders by subjecting them to the same treatment as adults and to potentially breach our international treaty obligations.

However, as explicitly noted in section 14(1) of the Youth Criminal Justice Act, that act takes precedence over any other act of Parliament so that if it is a young person, someone over

12 years of age but not yet 18 years old, he would be dealt with under the youth justice provisions. Therefore, just as with any other crime, there are additional safeguards for youth.

Honourable senators, the Government of Canada has no more fundamental duty than to protect the personal safety of our citizens and defend against threats to our national security. This is a mandate taken very seriously and this legislation has this guiding tenet as its aim.

Please let me close by urging all honourable senators to support this bill and, in doing so, to contribute to the safety and security of Canadians.

[Translation]

**Hon. Roméo Antonius Dallaire:** Honourable senators, I would like to give you my comments about Bill S-7. More specifically, I would like to draw your attention to certain points, since you will be voting on this bill, which I support as amended.

I believe that it is essential to draw your attention to certain aspects that, I hope, will be examined by our colleagues in the other place. Perhaps they will propose other amendments to the bill based on these observations.

Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, more commonly known as the Combating Terrorism Act, has been the subject of debate and thorough examination by the Special Senate Committee on Anti-terrorism since March.

As Senator Frum explained, we heard from a number of witnesses who convinced us to approve each clause of this bill unanimously.

I would like to add, as I said yesterday, that we are still unable to properly review this bill in terms of security because we do not have access to documents, information or secret or classified briefings. Not having access to that classified material limits our ability to assess where this fits in our overall security envelope.

More and more, it is becoming evident that in this time of complex security scenarios, parliamentary access to classified material is essential in order for us to examine some of these very demanding and complex — even ambiguous at times — bills for our security.

The United States, Great Britain and Australia — two of which have Westminster-style parliaments like ours — already have measures in place to give their legislators access to such material, as well as the ability to make more informed decisions about national security and to take a logical approach to these different bills. We must follow their example and begin a process whereby we too can implement such measures so that parliamentarians will have the right to oversee the operation of the institutions responsible for our national and international security.

In addition, parliamentarians' access to information, one of the aspects of Bill S-7 that I found very worrisome, is also a subject that I am passionate about. I would like to focus on a point that Senator Frum has already discussed — the impact that this bill will have on youth, that is, people under 18 years of age.

Honourable senators, children do not start wars and young people do not send others into battle. Armed conflicts are incited by adults. For these reasons, adults have a responsibility to protect children and to prevent them from being used as instruments in any conflicts, including acts of terrorism. We must ask ourselves whether Bill S-7 makes it possible for us to carry out this very specific responsibility.

The new offences introduced by this legislative measure, such as the offence of leaving or attempting to leave Canada to commit an act of terrorism, are a means to prevent Canadians, particularly youth, from engaging in this type of conflict. However, the fight against terrorism and the prevention of attacks requires us to consider the causes of such threats. To fight terrorism, we must deal with its deep-seated causes such as exclusion and radicalization, especially of youth, and the manifestation of the rage burning in their souls, their hearts and their emotions.

In reviewing Bill S-7, our objective as legislators is to prevent other young people from getting deeply involved in terrorism. If we fail, we must at least ensure that these young people will have fair and equitable trials and that they will not be dealt with as adults.

That is why, honourable senators, I will spend some time discussing two factors that should prevent other young people from following the path of the Toronto 18: prevention and prosecution.

[English]

Honourable senators, the best way to deter a terrorist attack from happening in Canada, and notably committed by a Canadian, is to implement a robust prevention strategy. Criminalization, such as the Criminal Code amendments brought in by Bill S-7, is but one piece of what needs to be a much broader strategy to fight against terrorism, i.e., a national strategy within the global environment.

This past winter, the government published its first counterterrorism strategy entitled *Building Resilience Against Terrorism*. This is a positive start. We note that Canada is a proudly multicultural nation and that historically we have welcomed those oppressed or persecuted in other nations and given them fertile ground on which to flourish. This is not a given, however. Programs, practices and support networks are essential to ensuring that refugee and immigration populations feel included in the fabric of Canada.

What I have tried to raise in the process of considering Bill S-7 is that we need to recognize that refugees in Canada are often the result of armed conflict and political instability. Dr. Shelly Whitman, director of the Child Soldier Initiative at Dalhousie University, said in her testimony before the committee:

... failure to address the inadequacies of our social integration for refugees has the ability to manifest itself into a problem that can result in the recruitment and use of our Canadian-born youth into armed groups and terrorist activity abroad.



We have seen evidence of this recruitment, particularly with al-Shabab in Somalia, the arrest of Mohamed Hersi in 2011, whose case has yet to come to trial, and others. In our prevention efforts, it is crucial to be aware of the fact that, for example, over 80 per cent of the Somali-Canadian community — one of Canada's largest African minority groups — is under 30 years of age. The best way to curb any potential interest or engagement in al-Shabab, or other such groups, is to fight marginalization and create a positive identity through inclusion and opportunity.

• (1810)

There are a few programs in place, such as the Cross-cultural Roundtable on Security and the RCMP's National Security Community Outreach. These are positive efforts that need to grow and continue, and not be curtailed or be under threat of being curtailed.

We also heard in testimony that it is crucial that Canada's police services get training in dealing with youth, particularly engaging with radicalized youth who can find their place in the diaspora within this country. If we are unable to reach marginalized youth who eventually find themselves and can find themselves in the hands of al-Shabab, then we need, secondly, to talk about prosecution.

Honourable senators, we also heard in testimony that the line between a youth engaged in terrorism activities and a youth engaged in child soldiering is blurry. A growing body of law exists to dictate the use, recruitment and activities of child soldiers in armed conflict. This includes the Convention on the Rights of the Child, the Optional Protocol on Children in Armed Conflict, the Paris Principles, the International Labour Convention Number 182, UN Security Council resolutions and precedents set by the Special Court for Sierra Leone, let alone the International Criminal Court in its recent findings.

International law is clear that a child soldier is not simply a 12-year-old with an AK-47. It includes all those under 18 who are:

... forcibly or voluntarily recruited or used in hostilities by any kind of armed forces or groups in any capacity, including but not limited to soldiers, cooks, porters, messengers and those accompanying such groups. It includes girls recruited for sexual purposes and forced marriage. It does not, therefore, refer exclusively to a child who is carrying or has carried arms or weapons.

Key developments in international law now recognize the recruitment and use of children as a grave violation of international law and a prohibited category of crime against children and, in fact, crimes against humanity. However, a "child terrorist" is not defined with the same degree of clarity as a "child soldier." The Criminal Code of Canada defines "terrorist group" and "terrorist activity," but not a "terrorist" or, for that matter, a "child terrorist." Age-specific protection for those engaged in the activities outlined in section 83.01(a) simply does not exist. Further still, terrorism offences in the Criminal Code do not apply to acts committed during an armed conflict.

Youth offenders under the Combating Terrorism Act are, therefore, nowhere explicitly defined. The Department of Justice has explained, as is stated in the committee's report, that Bill S-7

would be a law of general application to persons of all ages and that the Youth Criminal Justice Act has exclusive jurisdiction over young persons in contact with the law.

When concerns were raised, however, about the particular and separate treatment youth should be afforded throughout the legal process, we were told that, in addition to the Youth Criminal Justice Act, the common law would apply. The courts rely upon the common-law presumption that any legislation adopted in Canada is consistent with its international legal obligations, both customary and conventional, such as the instruments I have cited above.

Honourable senators, I am not particularly of a legal mind. A military mind has a certain discipline, but is not as in-depth as a legal one. I understand that for those of you who have been trained to see the world in this way that the necessary tools may be in place to ensure that potential youth offenders will be treated properly.

I have succinctly read the Youth Criminal Justice Act and I believe in the laws of our land, of course. I also know, however, that I have dedicated not only my own efforts in eradicating the use of child soldiers, but I have become significantly familiar with the instruments applicable in that field.

For the public record, and future reference, I would like to cite article 7 of the statute of the Special Court for Sierra Leone, which puts together in one sentence stipulations that I believe are essential in any trial of a young person for terrorism offences. We are trying to define what is not defined. It states:

Should any person who was at the time of the alleged commission of the crime below 18 years of age come before the court, he or she shall be treated with dignity and a sense of worth, taking into account his or her young age and the desirability of promoting his or her rehabilitation, reintegration into and assumption of a constructive role in society, and in accordance with international human rights standards, in particular the rights of the child.

Canada, as a member of the United Nations Security Council, helped draft this statute tabled in August 2000. Since its inception, Canada has also been one of the major donors funding the Special Court for Sierra Leone which dealt with essentially with child soldiers on all sides. The lead judge, and only non-African, was an admirable Canadian, Brigadier-General (Retired) Justice Pierre Boutet, who was once the Judge Advocate General of the Canadian Forces and who spent six and a half years in that court.

Article 7 broadly reflects the stipulations of the declaration of principle of the Youth Criminal Justice Act, including section 3.1(a)(2) that states that the YCJA is intended to:

... rehabilitate young persons who commit offences and reintegrate them into society ...

This is good and strong and is to be liberally construed, but I believe that article 7 of the Sierra Leone statute pushes our obligations to youth rehabilitation and reintegration explicitly further. If accomplished, if the mandate of encouraging the

“assumption of a constructive role in society” is fulfilled, this will be a significant step in ensuring the safety of Canada and the world from terrorism, and the abuse and use of children.

Finally, I remind honourable senators that the Anti-terrorism Committee has encouraged the Department of Justice to conduct a child rights impact assessment on this legislation and I bring to your attention the observations. I note that, as is outlined in the 2007 report of the Standing Senate Committee on Human Rights entitled *Children: The Silent Citizens*, such assessments should be conducted prior to bills becoming law to determine the potential effects that any proposed legislation could have on children. I would argue, and have argued, that the impact of being labelled a terrorist at a young and developing age could be devastating and, in fact, misconstrued in the face of the law and the legislation we are presented with.

Further, in accordance with both *Children: The Silent Citizens* and our expert witness testimony, there is often a difference between cup and lip with respect to the way in which legislation is anticipated in its operation and the way it in fact actually ends up operating for a variety of reasons. That is why child impact assessments are meant to be a continuous process. The predicted impact is first assessed, and later on an evaluation of the actual impact of implementation is conducted. This evaluation of legislation in practice would be open to seeking community and civil society feedback, which is critical to conducting a complete analysis.

Child impact assessments should be normal practice in Parliament. I am therefore glad that the Anti-terrorism Committee's report endorses such an analysis to be conducted by the Department of Justice — a very progressive move in my opinion.

The report's observations also state:

... in accordance with the views of certain witnesses, the committee endorses a detailed analysis of the bill's provisions by the Department of Justice to ensure that they are interpreted in accordance with YCJA principles as well as Canada's international obligations regarding the rights of young persons.

• (1820)

I believe it is essential that this assessment be completed and made available before the sunset provisions of this legislation are considered in this chamber again.

I conclude, honourable senators, by reminding you as we move to enact — and I support the enactment of an amended Bill S-7 — that child soldiers and, by extension, child terrorists are to be considered primarily as the victims of those who recruited them, the adults. They do not have the same mental or physical culpability as those adults. We must do everything in our power to make every young Canadian feel a part of the fabric of this nation and its future.

**Hon. A. Raynell Andreychuk:** Senator Dallaire's comments lead me to make a few statements on the record. The Youth Criminal Justice Act in no way indicates that children should not be made accountable. The process of developing from being a youth to an

adult means maturation. Children should not be held accountable in the same way as adults are, but they have to, in their growth, have some capability of understanding the consequences of their actions. The acts that we have had in Canada to do with children recognize that they are in a state of development, and, therefore, we take into account what would be in their best interests in developing into proper and responsible citizens.

I do not believe that children should not be accountable, be it for terrorist acts or for petty theft. What we should do is take into account their capability to understand the consequences of their actions. I believe Bill S-7 falls within that because the Youth Criminal Justice Act does apply to this bill, as it does to every other bill.

I do not think that there is much debate in Canada that we take into account the youth justice system when we charge children. That act automatically clicks in and takes precedence. I think that to try to draw some parallels from Sierra Leone is not the way to go.

I think it is better if the Department of Justice is mandated to constantly review how we apply the act. As the honourable senator said, there may be some difference in the intention of legislators and the implementation. To that extent, I think that the Department of Justice is aware of that and should have a role in constantly assessing it because children are so vulnerable.

The Sierra Leone court that Senator Dallaire referred to — and I should say that I have been there and discussed the matters that he pointed out with the judge — was an ad hoc court. It was starting from scratch. It had to develop its own rules. It was limited in time, and it had a specific mandate. It was a heroic struggle for the court, the prosecution and the defence counsel to be seen to be fair, as well as to actually be fair and just.

The comments made with respect to juveniles and child soldiers were in the context of the Sierra Leone court. It may be instructive to us, but I do not think it is binding, nor does it create new law in any way that Canada has not considered in the past.

I wanted an assurance on the record because the testimony of the honourable senator implies that there is, somehow, something wanting in our system. The only thing that is wanting in our system is the very same thing that we have struggled with for decades and will continue to struggle with, and that is how to maintain a balance of security for society while working in the best interests of children and their development.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Bill, as amended, read third time and passed.)



## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### ELEVENTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration (Senators' Travel Policy), tabled in the Senate on May 17, 2012.

**Hon. David Tkachuk** moved the adoption of the report.

He said: Honourable senators, this report speaks to senators' travel policy, and it is the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration. We have taken the various guidelines that we have received from past audits and studies of our own, and all the decisions are reflected in one travel policy documented. The format is consistent with the Senate's policy framework, including monitoring and reporting, and the policy recognizes the importance of providing senators with appropriate travel assistance and sets some context regarding the type of travel. Of course, we tried, as a philosophy, to have senators responsible for their own travel points so that they would have less reason to come to Internal Economy and steering. We designated numbers for staff as to how many travel points one can have for family members, dependents and one's travel companion.

With that, I would like to ask the Senate to approve this report.

(On motion of Senator Tardif, for Senator Kenny, debate adjourned, on division.)

• (1830)

## MENTAL HEALTH, ILLNESS AND ADDICTION SERVICES IN CANADA

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Hubley, calling the attention of the Senate to the 5th anniversary of the tabling of the Standing Senate Committee on Social Affairs, Science and Technology's report: *Out of the Shadows at Last: Transforming Mental Health, Mental Illness and Addiction Services in Canada*.

**Hon. Elizabeth Hubley:** Honourable senators, Senator Callbeck is very interested in having an opportunity to speak to this item. Therefore, I would like to adjourn this inquiry in her name.

(On motion of Senator Hubley, for Senator Callbeck, debate adjourned.)

[Translation]

## OLD AGE SECURITY

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck, calling the attention of the Senate to the inequities of the Old Age Security Allowance for unattached, low-income seniors aged 60-64 years.

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, we are discussing Senator Callbeck's inquiry to call the attention of the Senate to the inequities of the Old Age Security Allowance for unattached, low-income seniors aged 60-64 years.

This is an important issue. We have seen, and we will continue to see for the next few years, important debates on the adequacy of pensions — both private and public pension plans. There are also many issues that affect private pension plans. It is very important to debate this issue and I intend to use the full amount of time allotted to me in order to examine the issue. Unfortunately, I have not had the time to complete my research. I hope to complete it in the next few days.

I wish to draw your attention, honourable senators, to this problem and shed new light on it, which, I believe, could help us all. For these reasons, I move the adjournment of the debate for the remainder of my time.

(On motion of Senator Carignan, debate adjourned.)

## ROYAL ASSENT

**The Hon. the Speaker** informed the Senate that the following communication had been received:

### RIDEAU HALL

May 31, 2012

Mr. Speaker,

I have the honour to inform you that Mr. Stephen Wallace, Secretary to the Governor General, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 31st day of May, 2012, at 6:16 p.m.

Yours sincerely,

Patricia Jaton,  
Deputy Secretary to the Governor General

The Honourable  
The Speaker of the Senate  
Ottawa

Bill Assented to Thursday, May 31, 2012:

Restoring Rail Service Act (*Bill C-39, Chapter 8, 2012*)

**ADJOURNMENT****MOTION ADOPTED**

Leave having been given to revert to Notices of Motions:

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 5, 2012, at 2 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, June 5, 2010, at 2 p.m.)

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